

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

#### Donation of Structural Pest Control Work (LAC 7:XXV.163)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission adopts regulations governing the donation of structural pest control work to individuals who otherwise could not afford such services in order to improve the living conditions and their quality of life. These rules comply with and are enabled by R.S. 3:3203(A).

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

#### Chapter 1. Structural Pest Control Commission

#### §163. Donation of Structural Pest Control Work

A. Structural pest control operators licensed by the Structural Pest Control Commission may donate, in accordance with this Section, structural pest control services to eligible individuals or organizations who otherwise could not afford such services in order to improve living conditions and their quality of life.

B. The Structural Pest Control Commission, at the request of the Louisiana Pest Control Association or any other state or local Not-For-Profit association of pest control operators, may approve a plan for the donation of pest control services to individuals or organizations that are in need of, but unable to afford such services.

C. Any plan submitted to the Structural Pest Control Commission must state:

1. the purpose of the plan;
2. the organization(s) or group(s) of persons receiving such services;
3. the nature of the services to be provided;
4. the location(s) at which the services are to be provided;
5. the length of time the program is to run;
6. the licensed pest control operators who are expected to participate;
7. any other information the commission may deem necessary to properly evaluate the plan.

D. Upon approval of any such plan by the commission, the Louisiana Department of Agriculture and Forestry shall suspend:

1. the fee for termite contracts required under LAC 7:XXV.117.M; and
2. the requirements of LAC 7:XXV.123 pertaining to contracts.

E. The Rules and Regulations suspended by Subsection D above are waived only for the duration of the program and only in connection with structural pest control work performed by participating licensed pest control operators on buildings and structures at the specific locations listed in the approved plan.

F. The month of June is the Louisiana Pest Control Month. All programs for the donation of pest control work shall begin in June and end at the time specified in the plan that is submitted and approved by the Structural Pest Control Commission. The commissioner may, for exceptional circumstances, approve a plan to begin in a month other than June.

G. A copy of the approved plan, showing the list of specific eligible locations and the beginning and ending dates of the program shall be published in the potpourri section of the *Louisiana Register* at least 30 days prior to the beginning of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 24:1262 (July 1998).

Bob Odom  
Commissioner

9807#053

## RULE

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

#### Commission Bylaws (LAC 28:V.Chapter 1)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with §952 of the Administrative Procedure Act, hereby revises its governing bylaws (originally promulgated in the September 1996 *Louisiana Register*, pages 809-813), as follows:

(Editor's Note: The full text of these bylaws is being repromulgated in order to place the text in LAC codified format. The agency is amending §§101, 105, and 113. Other sections are not being amended.)

## **Title 28**

### **EDUCATION**

#### **Part V. Student Financial Assistance—Higher**

##### **Education Loan Program**

#### **Chapter 1. Student Financial Assistance Commission**

##### **Bylaws**

#### **§101. Definitions and Authority**

*Assistant Executive Director* (as used in these bylaws)—that person appointed in the unclassified service as the principal assistant to the executive director, who shall, as delegated by the executive director, assume the duties of the executive director during his/her absences.

*Chairman of the Commission* (as used in these bylaws)—the executive secretary to the governor or his/her designee, who shall serve as ex officio chairman of the commission.

*Director* (as used in these bylaws)—that person appointed in the classified service as the administrative head of a division of the Office of Student Financial Assistance.

*Divisions* (as used in these bylaws)—a subordinate organizational element of the Office of Student Financial Assistance which has been approved by the commission.

*Executive Director* (as used in these bylaws)—that person duly appointed by the commission pursuant to R.S. 17:3022(B) to serve in the unclassified service as executive director of the Office of Student Financial Assistance, who shall be its chief executive officer and the appointing authority for all classified employees of the office.

*Fiscal Officer* (as used in these bylaws)—that employee of the office assigned responsibility for preparation and monitoring the approved budget of the commission, who may jointly serve as a director.

*Louisiana Student Financial Assistance Commission* (as used in these bylaws)—the statutory body created by R.S. 17:3021, et seq., which shall be composed of the members who are duly appointed and qualified as provided by law. The commission shall be the governing body of the Office of Student Financial Assistance and shall establish procedures for the selection and appointment of the unclassified employees of that office, in conformance with applicable laws.

*Office of Student Financial Assistance* (as used in these bylaws)—the organization created by R.S. 36:650 to perform the functions of the state relating to the programs of financial assistance and the certain scholarship programs for higher education in accordance with the directives of the commission and applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998).

#### **§103. Meetings**

A. Regular Meetings. The commission shall hold regular meetings which are limited in number to 12 per year. All regular meetings shall be held at meeting places designated by the commission. Proxy voting shall be allowed at all meetings for the chairman of: State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents;

Board of Trustees and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board. The superintendent of education may vote by proxy through a member of his/her executive staff. No other members shall have the right of proxy voting.

B. Special Meetings. Special meetings of the commission may be called by the chairman at any time, or by the secretary upon written request therefor signed by a majority of the members and specifying the purposes of the desired meeting. Written notification shall be sent to each member at least three calendar days before the time of the meeting.

C. Compensation.

1. Members of the commission shall receive compensation for their service at the rate authorized by statute or as authorized by executive order, and shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the commission.

2. The commission is limited to 12 meetings per year for which per diem may be drawn by commission members. D .

Quorum. A simple majority of the commissioners shall constitute a quorum for the transaction of any business, and a simple majority of the quorum present at any meeting voting in favor or against a particular item shall be the act of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1263 (July 1998).

#### **§105. Officers of the Commission and Executive Staff**

A. Chairman and Vice Chairman.

1. The executive secretary to the governor or his/her designee shall serve as ex officio chairman of the commission. The commission shall select a vice chairman annually. Should a vacancy occur in the vice chairmanship, the commission shall elect a successor from its membership. The commission may elect such other officers as it deems necessary.

2. The chairman of the commission shall preside over all meetings of the commission, serve as ex officio member of all committees, name the appointive members of all standing and special committees of the commission, and fill all vacancies in the membership of such committees, in accordance with the provisions of these bylaws.

3. The vice chairman of the commission shall perform the duties of the chairman in the absence of the chairman of the commission.

4. In the event both the chairman and the vice chairman are absent from a commission meeting, the commission shall elect a temporary chairman from those present.

B. Secretary. The commission shall elect a secretary annually, who may certify the minutes, papers and documents of the commission or of its committees to be true and correct copies.

C. Executive Staff. The executive staff of the commission shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director, the assistant executive director, the general counsel, the fiscal officer and the directors of the divisions of the office,

and such other personnel as may be required for the efficient performance of the functions of the commission. The executive staff shall be tasked, directed and supervised by the executive director.

D. Authentication. Copies of all minutes, papers and documents of the commission, or its committees, may be certified to be true and correct copies by either the chairman, secretary or executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998).

#### **§107. Order of Business**

A. Rules of Order. When not in conflict with any of the provisions of this article, *Robert's Rules of Order* (latest revision) shall constitute the rules of parliamentary procedure applicable to all meetings of the commission or its committees.

B. Order of Business. The order of business of regular meetings of the commission shall be as follows:

1. roll call;
2. corrections and approval of minutes of preceding regular meetings and of all special meetings held subsequent thereto;
3. reports and recommendations of standing and special committees;
4. unfinished business;
5. divisional updates;
6. new business;
7. next meeting.

C. Reference to Committees. In cases where feasible and desirable before taking action, the commission should refer any subject or measure to the standing or special committee in whose purview the matter falls. The committee to which the matter is referred should submit to the commission its recommendations in writing, together with any resolutions necessary to facilitate such recommendations.

D. Meetings.

1. Meetings shall be conducted in accordance with state law governing public bodies. It shall be the policy of the commission that all meetings be open to all who wish to attend. The commission shall enter into a closed or executive session by two-thirds majority vote of the quorum present. Prior to each regular meeting of the commission, the executive director, with approval of the chairman, shall prepare and forward to each member of the commission a tentative agenda for the meeting at least five working days prior to such regular meeting. Upon request of three members of the commission made prior to the fifth day before the next commission meeting that a particular item be included, the chairman shall place the subject or subjects upon the agenda. All matters requiring commission action, however, may be acted on even though not carried on the agenda.

2. Each resolution shall be reduced to writing and presented to the commission before it is acted upon. All official actions of the commission shall require a simple majority vote of the quorum present at the meeting.

E. Minutes. The minutes of the commission shall record official action taken upon motions or resolutions which are

voted upon by the commission and may contain a summary of reports and pertinent discussion. The foregoing provisions relative to contents of the minutes shall, in general, also apply to minutes of committees of the commission. The minutes of meetings of the commission become official only when completed and approved by the commission.

F. Meeting Attendance. Commission members are required to attend all commission meetings. Failure to attend three meetings annually will result in a notice being sent from the commission to the absent member stating that failure to attend one more meeting will result in a request being made to the appointing authority that the absent member be replaced. In the event a fourth meeting is missed, said request shall be sent to the appointing authority. Also, the absent member shall be relieved of duties on any committee to which he/she has been appointed to serve. This section is not applicable to meetings that are missed with just cause, as determined by the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998).

#### **§109. Committees**

A. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership of the commission, the standing committees of the commission shall consist of the following:

1. Executive Committee;
2. Budget and Finance Committee;
3. Personnel and Policy Committee.

B. Appointment and Terms.

1. Members of all standing committees, one of whom shall be designated as chairman and one of whom shall be designated as vice chairman, shall be appointed by the chairman of the commission, ordinarily soon after the chairman assumes office. The term of committee appointments shall be one year.

2. Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the chairman of the commission for the remainder of the unexpired term.

C. Officers of Standing Committees.

1. The chairman and the vice chairman of the commission shall be chairman and vice chairman, respectively, of the executive committee. In the absence of the chairman, the vice chairman shall preside. In the event both the chairman and vice chairman are absent from a meeting, the committee shall elect a temporary chairman from those present.

2. It shall be the duty of the chairman of each committee to call and to preside over the necessary meetings. The minutes of the meeting of the committee, showing its actions and recommendations, shall be deemed in compliance with the provisions of §107.C, hereof, concerning the written recommendations of the committee.

D. Quorum of Committee Meetings. A simple majority of the membership present at a meeting of a committee of the commission shall constitute a quorum for the transaction of business. When a quorum is not present, the chairman of the

committee, or vice chairman in the chairman's absence, may designate a member of the commission to serve as a substitute member of the committee concerned.

E. Authority of Committees. The authority of committees of the commission shall be subject to these bylaws and to the policies and direction of the commission.

F. Executive Committee

1. The executive committee shall consist of five members. The chairman and vice chairman of the commission shall serve in those capacities on the executive committee. The chairman of each of the other standing committees or the chair's designee from his respective committee shall be a member of the executive committee. The remaining person, for a total of five members, shall be appointed by the chairman of the commission from the other members of the commission.

2. The executive committee shall consider such matters as shall be referred to it by the commission and shall execute such orders and resolutions as shall be assigned to it at any meeting of the commission. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority. In the event that an emergency requiring immediate commission action shall arise between commission meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate. The executive committee shall report the actions it takes in emergency session to the commission for ratification at the commission's next meeting.

G. Budget and Finance Committee. The Budget and Finance Committee shall consist of not less than six members of the commission. Normally, to this committee shall be referred all matters related to budget and to policies concerning the financial management of the commission and the office.

H. Personnel and Policy Committee. The Personnel and Policy Committee shall consist of not less than six members of the commission. Normally, to this committee shall be referred matters concerning reorganization of the office. This committee shall hear appeals pursuant to the office's grievance procedure.

I. Special Committees. As the necessity therefor arises, the chairman may, with the concurrence of the commission, create special committees with such functions, powers and authority as may be delegated. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998).

**§111. Communications to the Commission**

All communications to the commission, or to any committee thereof, from persons having official relations with the commission shall be filed in writing with the executive director and duly transmitted by him to the commission. The

executive director shall have the authority to read and comment upon all communications from employees of the office but shall not delay or withhold such communications, except as hereinafter provided. Such communications shall be filed with the executive director at least five days before the meeting of the commission or committee and with the chairman at least three days before such meeting. Otherwise, the executive director may either submit such communication at that time or withhold such communication until the next meeting. In the event the executive director elects to withhold any such communication until the next meeting, such communication shall be promptly forwarded to the chairman with the notation of the executive director concerning such withholding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1265 (July 1998).

**§113. Rights Duties and Responsibilities of the Executive Staff of the Commission**

A. Executive Staff of the Commission

1. The executive staff of the commission staff shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director, the assistant executive director, the general counsel, the fiscal officer, and the directors of the divisions of the office, and such other personnel as may be required for the efficient performance of the functions of the commission. The executive staff shall be tasked, directed and supervised by the executive director.

2. Unless otherwise directed by the executive director, the executive staff shall attend the meetings of the commission and its various committees.

B. Executive Director

1. The executive director shall be the executive head and chief administrative officer of the Office of Student Financial Assistance. The executive director will be responsible to the commission for the conduct of the Office of Student Financial Assistance in all affairs and shall execute and enforce all of the decisions, orders, rules and regulations of the commission with respect to the conduct of the Office of Student Financial Assistance. The executive director shall be appointed by and shall hold office at the pleasure of the commission. The executive director's discretionary authority shall be broad enough to enable him/her to meet his/her responsibilities, in the day-to-day operations of the Office of Student Financial Assistance.

2. The executive director shall be the "appointing authority" for the purposes defined by state civil service law, rules and regulations and shall exercise the authority granted to an "appointing authority" thereunder.

3. The executive director shall have the authority to suspend or dismiss unclassified employees.

4. Subject to these bylaws and the regulations and directions of the commission, the executive director shall:

a. establish administrative policies and procedures for the operation of the Office of Student Financial Assistance;

b. plan, organize, supervise, direct, administer, and execute the functions and activities of the Office of Student Financial Assistance;

c. prepare and present a business plan and consolidated budget for the Office of Student Financial Assistance and the commission;

d. serve as governmental liaison and spokesperson for the commission;

e. promote the development of the commission's programs.

5. The executive director shall task, direct, and supervise the executive staff.

6. The executive director shall be responsible for ensuring compliance with the legislatively enacted budgets as approved by the commission.

7. Annually, on or before July 1st, an evaluation of the executive director's job performance and compensation shall be conducted by the commission. These evaluations shall be conducted using a format adopted by the commission for these purposes. Changes to the compensation structure adopted by the commission shall be effective on July 1st of the year in which the evaluation is performed.

C. Assistant Executive Director. The assistant executive director shall be nominated by the executive director and confirmed by the commission. The assistant executive director shall serve as the principal assistant to the executive director and, as delegated by the executive director, assume the duties of the executive director during his/her absences. He/She shall be responsible to the executive director for the effective performance of all duties assigned by the executive director, in accordance with the policies, rules, regulations, directives and memoranda issued by the executive director and the commission.

#### D. Directors of Divisions

1. There shall be a director for each division of the Office of Student Financial Assistance, appointed by the executive director in accordance with state civil service laws, rules and regulations. Under the direction and authority of the executive director and the rules of the commission, each director shall administer the division for which he/she is appointed.

2. As the administrative head of a division, the director shall be responsible to the executive director for planning, supervising, directing, administering and executing the functions and programs assigned to the division in accordance with all applicable laws, rules, regulations, policies, directives, and budgets.

3. The directors may invite members of his/her administrative staff to aid him in his/her presentations to the commission.

E. Delegation of Authority. In the absence of the executive director, the assistant executive director, as delegated by the executive director, will assume the duties of the executive director during his/her absences. In the event both the executive director and the assistant executive director are absent, the executive director will appoint the most senior division director to assume the duties of the executive director.

F. Agency Fiscal Officer (Manager). The fiscal officer is responsible for assisting the directors in developing annual operating budgets based upon the commission's approved business plan. This shall include the functions of review and recommendations concerning the budget of each division and the preparation of a consolidated budget, as well as monitoring and reporting the budget as approved by the commission and enacted by the state legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1265 (July 1998).

#### §115. Responsibilities of Commission Members

Commission members are charged with the responsibility of ensuring that the functions and duties of the Office of Student Financial Assistance are performed effectively in fulfilling the purposes of R.S. 17:3021 et seq. Prior to assuming the responsibilities to which appointed and to avoid any potential conflict of interest, a commissioner shall, to the best of his or her knowledge, disclose to the State Board of Ethics any pre-existing relationship between the commission and the commissioner or any member of the commissioner's immediate family or any entity in which the commissioner has a substantial economic interest. This obligation to disclose is a continuing obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1266 (July 1998).

#### §117. Amendment or Repeal of Bylaws

New bylaws may be adopted, and bylaws may be amended or repealed, at any meeting of the commission, but no such action shall be taken unless notice of such proposed adoption, amendment, or repeal shall have been given at a previous meeting or notice in writing of the proposed change shall have been served upon each member of the commission at least 30 days in advance of the final vote upon such change, provided, however, when deemed necessary, that by a simple majority of the entire membership of the commission, the requirements for such notice may be waived at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1266 (July 1998).

#### §119. Rules and Regulations of Louisiana Student Financial Assistance Commission

A. Any action by the commission establishing policy or methods of procedure, administrative, business, or otherwise shall be known as "Rules and Regulations of the Louisiana Student Financial Assistance Commission."

B. "Rules and Regulations of the Louisiana Student Financial Assistance Commission" may be adopted by the commission, or may be amended or repealed, in whole or in part, at any meeting of the commission by a vote of simple majority.

C. All policies and procedures of the commission falling within the definition of rules and regulations, as herein

defined, and in existence upon the date of the adoption of these bylaws, shall be a part of the "Rules and Regulations of the Louisiana Student Financial Assistance Commission."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1266 (July 1998).

#### **§121. Effective Date**

These bylaws shall be adopted and shall become effective on the date they are published as final rule in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1267 (July 1998).

#### **§123. Repealing Clause**

All rules, orders, regulations, and resolutions heretofore enacted or adopted by this commission, which are in conflict with these bylaws, are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1267 (July 1998).

Jack L. Guinn  
Executive Director

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### **RULE**

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

Student Tuition and Revenue Trust (START Saving)  
Program (LAC 28:VI.Chapters 1 and 3)

The Tuition Trust Authority hereby amends rules governing the Student Tuition Assistance and Revenue Trust (START Saving) Program.

The Student Tuition Assistance and Revenue Trust (START Saving) Program was created by R.S. 17:3091 et seq. The *Internal Revenue Code* (IRC) §529 provides tax incentives for those state tuition savings and prepayment programs meeting the definition of a qualified state tuition program. The rules are being revised to reflect changes in the IRC §529 and editorial changes.

### **Title 28 EDUCATION**

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

##### **Chapter 1. General Provisions**

##### **Subchapter A. Student Tuition Trust Authority**

##### **§101. Program Description and Purpose**

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

1. help make education affordable and accessible to all citizens of Louisiana;

2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;

3. provide the citizens of Louisiana with financing assistance for education and protection against rising tuition costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;

4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and

5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes education savings accounts by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated beneficiary or a group of beneficiaries.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for tuition assistance grants provided by the state to help offset the beneficiary's cost of postsecondary tuition.

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

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

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

##### **§103. Legislative Authority**

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

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

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

##### **§105. Program Administration**

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

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

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

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

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

### §107. Applicable Definitions

*Account Owner*—the person(s), independent student, organization or group that completes a depositor's agreement on behalf of a beneficiary or beneficiaries and is the account owner of record of all funds credited to the account.

*Beneficiary*—the person named in the education savings account depositor's agreement as the individual entitled to apply the account balance, or portions thereof, toward payment of their postsecondary qualified higher education expenses.

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

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

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

*Education Scholarship Account (ESA)*—an account which is not eligible for tuition assistance grants and is established on behalf of a beneficiary or beneficiaries by a person or organization other than a parent, grandparent, legal guardian, independent student or person claiming the beneficiary or beneficiaries as dependent(s) on that person's or organization's federal income tax return.

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

*Emergency Refund*—a refund of the redemption value of an account due to an unforeseen event which has adversely impacted the account owner, such as termination of employment, death, or permanent disability and resulted in a severe reduction in income or extraordinary expenses.

*Enrollment Period*—that period designated by the LATTA during which applications for enrollment in the START program will be accepted by the LATTA.

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

*Family Member*—in reference to the account beneficiary:

1. an ancestor of such individual;
2. the spouse of such individual;
3. step-sibling(s) and their spouse;
4. a lineal descendant of such individual, of such

individual's spouse or parent of such individual or the spouse of any lineal descendant described herein. A legally adopted child of an individual shall be treated as a lineal descendant of such individual.

*Fully Funded Account*—an account having a redemption value equal to or greater than five times the annual tuition at the highest cost Louisiana public college or university projected to the scheduled date of the beneficiary's first enrollment in an eligible educational institution. An account which is "fully funded" is no longer eligible for accrual of tuition assistance grants. However, if subsequent cost projections result in the fully funded amount being more than the account balance, then tuition assistance grants may resume until the level of the most recent fully funded account projection has been met.

*Independent Student*—a person who is defined as an independent student by the Higher Education Act of 1965, as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an education assistance account.

*Louisiana Education Tuition and Savings Fund (the Fund)*—a special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, consisting of deposits made by account owners pursuant to the START Saving Application and Depositor's Agreement, interest earned on said deposits as a result of investment by the Louisiana State Treasurer, accumulated penalties and forfeitures, and the Tuition Assistance Fund, which is a special sub-account designated to receive tuition assistance grants appropriated by the State, and interest earned thereon.

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

*Louisiana Resident*—

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

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

2. a member of the Armed Forces stationed outside of Louisiana, but who claims Louisiana as his "home of record" and is in compliance with Paragraph 1.d above, is exempt from the requirement of continuous residence in the state

during the 12 months preceding the date of completion of the depositor's agreement;

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

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

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

*Maximum Allowable Account Balance*—the amount projected to equal five times the annual qualified higher education expenses, including tuition at the eligible educational institution selected projected to the scheduled date of the beneficiary's first enrollment in that institution, and qualified room and board costs. In the event no specific eligible educational institution is named by the account owner, the maximum allowable account balance amount is projected to equal five times the annual qualified higher education expenses, including tuition, at the highest cost public institution in the state, projected to the scheduled date of the beneficiary's first enrollment. Once the redemption value of an education assistance account equals or exceeds the maximum allowable account balance, principal deposits will no longer be accepted for the account. However, if subsequent projections increase the maximum allowable account balance, principal deposits may resume until the most recent maximum allowable account balance has been attained.

*Qualified Higher Education Expenses*—tuition, fees, books, supplies, equipment, and room and board required for the enrollment or attendance of a designated beneficiary at an eligible institution of postsecondary education

*Rate of Expenditure*—the rate [see §309. C] per academic year, at which tuition assistance grants may be disbursed from an education assistance account to pay the beneficiary's cost of tuition, or portion thereof, at an eligible educational institution.

*Redemption Value*—the cash value of an education savings account attributable to the sum of the principal invested, the interest earned on principal and authorized to be credited to the account by the LATTA, any tuition assistance grants appropriated by the legislature and authorized by the LATTA to be allocated to the account and the interest earned on tuition assistance grants, less any tuition assistance grants or interest thereon restricted from expenditure and less any penalties required by *Internal Revenue Code*, §529(b)(3). If the account has a redemption value after the beneficiary has completed his educational program, this excess value shall be treated as a refund.

*Refund Recipient*—the person authorized by the depositor's agreement, or by operation of law, to receive refunds from the account.

*Room and Board*—qualified room and board costs include the reasonable cost for the academic period incurred by the designated beneficiary for room and board while attending an eligible educational institution on at least a half time basis, not to exceed the minimum amount included for room and board

for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087II) for the eligible educational institution for such period. Room and board are only qualified higher education expenses for students who are enrolled at least half time.

*Scheduled Date of First-Enrollment*—for a dependent beneficiary, is the month and year in which the beneficiary turns 18 years of age. For an independent student, the scheduled date of first-enrollment is the expected date of enrollment reported by the independent student beneficiary. This date is used to determine eligibility for tuition assistance grants. See the term "*Fully Funded Account*."

*Tuition*—the mandatory educational charges required as a condition of enrollment and limited to undergraduate enrollment. It does not include nonresidence fees, laboratory fees, room and board nor other similar fees and charges.

*Tuition Assistance Grant*—a payment allocated to an education assistance account, on behalf of the beneficiary of the account, by the state. The grant amount is calculated based upon the account owner's annual federal adjusted gross income and total annual deposits of principal. The grant and interest earned may only be used to pay the beneficiary's tuition, or portion thereof, at an eligible in-state institution.

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

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

### Chapter 3. Education Savings Account

Note: Except where otherwise provided, all terms, conditions, and limitations in this Chapter shall apply to both education assistance accounts and education scholarship accounts.

#### §301. Education Assistance Accounts (EAA)

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

##### B. Program Enrollment Period

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

2. In addition to the July 1 through November 1 enrollment period, the enrollment period for newborn infants is open from the date of birth until the named beneficiary's first birthday.

##### C. Completing the Depositor's Agreement

1. This agreement must be completed, in full, by the account owner.

2. The account owner shall designate a beneficiary.

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

4. Transfer of account ownership is not permitted, except in the case of the death of an account owner.

5. Only the account owner or the beneficiary may be designated to receive refunds from the account.

D. Agreement to Terms. Upon executing a depositor's agreement, the account owner certifies that he understands and agrees to the following statements:

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

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

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

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

5. Conditions for Payment of Education Expenses—that payments for qualified higher education expenses under the START Saving Program are conditional upon the beneficiary's acceptance and enrollment at an eligible educational institution;

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

E. Acceptance of the Depositor's Agreement

1. A properly completed and submitted depositor's agreement will be accepted upon receipt.

2. Upon acceptance of the depositor's agreement, the LATTA will establish the account of the named beneficiary.

F. Citizenship Requirements. Both the account owner and beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

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

G. Residency Requirements

1. On the date an account is opened, either the account owner or his designated beneficiary must be a Louisiana resident, as defined in §107 of these rules.

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

H. Providing Personal Information

1. The account owner is required to disclose personal information in the depositor's agreement, including:

a. his Social Security number;

b. the designated beneficiary's Social Security number;

c. the beneficiary's date of birth;

d. the familial relationship between the account owner and the designated beneficiary;

e. the account owner's prior year's federal adjusted gross income amount as reported to the Internal Revenue Service.

2. By signing the depositor's agreement, the account owner provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

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

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

I. First Disbursement Restriction. A minimum of one year must lapse between the date the account owner makes the first deposit opening an account and the first disbursement from the account to pay a beneficiary's qualified higher education expenses, which will normally be the beneficiary's projected scheduled date of first-enrollment in an eligible educational institution.

J. Number of Accounts for a Beneficiary. There is no limit on the number of education savings accounts that may be opened for one beneficiary by different account owners; however, the sum total of funds in all accounts for the same beneficiary may not exceed the maximum allowable account balance for that beneficiary and the sum of all education assistance accounts will be used to determine when these accounts are fully funded for the purpose of earning tuition assistance grants.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:1269 (July 1998).

### **§303. Education Scholarship Accounts (ESA)**

Reserved.

### **§305. Deposits to Education Savings Accounts**

A. Application Fee and Initial Deposit Amount

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

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

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

4. A lump sum deposit may not exceed the maximum allowable account balance [see §107].

**B. Deposit Options**

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

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

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

3. After acceptance of the depositor's agreement and annually thereafter, the LATTA will project the amount of the monthly deposit that will assure the account owner of sufficient savings to meet the qualified higher education expenses of the beneficiary at the scheduled date of enrollment at the selected institution, or the highest cost public institution if one was not preselected.

**C. Limitations on Deposits**

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

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

3. Once the account becomes fully funded [see §107], it will no longer be considered for tuition assistance grants, regardless of the total amount of annual deposits made to the account.

4. Once the redemption value has reached or exceeded the maximum allowable account balance [see §107], principal deposits will no longer be accepted to the account.

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

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

**§307. Allocation of Tuition Assistance Grants**

A. Tuition assistance grants are state-appropriated funds allocated to an education assistance account, on behalf of the beneficiary named in the account.

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

2. Although allocated to individual accounts, tuition assistance grants are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay tuition costs at an eligible institution as set forth in §307.G.

**B. Providing Proof of Annual Federal Adjusted Gross Income**

1. The account owner's annual federal adjusted gross income is used in computing the annual tuition assistance grant allocation.

2. To be eligible in any given year for a tuition assistance grant, the account owner of an education assistance account must:

- a. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue; or
- b. provide the LATTA a copy of his federal income tax return filed for that year.

3. In completing the depositor's agreement, the account owner of an education assistance account authorizes the LATTA to access his records with the Louisiana Department of Revenue, for the purposes of verifying the account owner's federal adjusted gross income. In the event the account owner will not file his tax information with the Louisiana Department of Revenue by their May 15 deadline, he must provide the LATTA with:

- a. a copy of the form filed with the Internal Revenue Service (Form 1040, 1040A, 1040EZ, or 1040TEL); or
- b. a notarized statement as to why no income tax filing was required of the account owner.

4. To ensure timely allocation of tuition assistance grants to the account, the account owner should provide these documents prior to July 1 following the applicable tax year. Tuition assistance grants will not be allocated to an education assistance account until the LATTA has received verification of an account owner's federal adjusted gross income and interest on tuition assistance grants will not accrue to the benefit of an education assistance account until the LATTA has authorized the tuition assistance grant allocation to the account.

5. If the account owner fails to provide the required tax documents by December 31 of the year following the taxable year, the account shall not be allocated a tuition assistance grant for the year being considered.

**C. Availability of Tuition Assistance Grants**

1. The availability of tuition assistance grants to be allocated to education assistance accounts is subject to an appropriation by the Louisiana Legislature.

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

**D. Tuition Assistance Grant Rates.** The tuition assistance grant rates applicable to an education assistance account are determined by the federal adjusted gross income of the account owner, according to the following schedule:

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

\$75,000 to \$99,999	4 percent
\$100,000 and above	0 percent

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

E. Restrictions on Allocation of Tuition Assistance Grants to Education Assistance Accounts. The allocation of tuition assistance grants is limited to education assistance accounts which:

1. have principal deposits totaling at least \$100 annually;
2. have an account owner's reported federal adjusted gross income of less than \$100,000;
3. have a redemption value that is less than that of a fully funded account [see §107].

F. Frequency of Allocation of Tuition Assistance Grants to Education Assistance Accounts. Tuition assistance grants will be allocated annually and reported on the July 1 quarterly statement, or no later than the second statement following the account owner's required disclosure of his or her prior year's federal adjusted gross income.

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

H. Restriction on Use of Tuition Assistance Grants

1. Tuition assistance grants, and any interest which may accrue thereon, may only be expended in payment of the beneficiary's tuition, or a portion thereof, at an eligible educational institution located in the state of Louisiana.

2. Tuition assistance grants may not be used at an out-of-state eligible educational institution, nor may they be used to pay for any qualified higher education expenses other than tuition.

3. Tuition assistance grants, although allocated to a beneficiary's account and reported on the account owner's quarterly statements, are assets of the state of Louisiana until expended to pay a beneficiary's tuition at an eligible Louisiana institution.

4. Tuition assistance grants are not the property of the account owner or beneficiary.

5. The amount of tuition assistance grants which may be expended during a given term is determined by the length of the program in which the beneficiary actually enrolls [see §309].

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

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

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

A. Enrollment Notification

1. The designated beneficiary of an education assistance account must notify the LATA of the name and address of the institution at which he has enrolled using the Notice of Enrollment form.

2. The Notice of Enrollment form should be completed and returned as soon as the beneficiary has determined which

institution he will attend and must be returned at least 60 days prior to the beginning of the term for which benefits are to be utilized to ensure timely notification of available benefits to the beneficiary and the educational institution.

B. Statement of Available Funds. Upon receipt of the Notice of Enrollment, the LATA will forward to both the beneficiary and the institution:

1. a statement specifying the amount of tuition assistance grants which may be expended from the account for the specified academic term; and
2. the balance of the account which may be expended for any remaining qualified higher education expenses that may be billed by the institution.

C. Disbursement of Account Funds. Disbursements will be made first from Tuition Assistance Grant funds and second from principal deposits and earnings as set forth herein.

D. Rate of Expenditure of Tuition Assistance Grants

1. To determine the beneficiary's allowable rate of expenditure of tuition assistance grants from an education assistance account, the total of tuition assistance grants and interest earned thereon which has been allocated to the account is divided by the number of years, or the number of remaining years, in the program in which the beneficiary enrolled or is attending, meaning the number of years to complete an undergraduate certificate, associate degree, or bachelor's degree program as defined by the institution, not to exceed four years.

2. The amount so calculated or the actual tuition, whichever is less, is the amount of tuition assistance grants which may be expended for the academic year.

a. If the student is attending a semester institution, the amount shall be divided by two to determine the amount allowable each semester;

b. If attending a quarter institution the amount shall be divided by three to determine the amount allowable each quarter.

E. Expenditure of Principal and Earnings

1. The balance of principal and earned interest in an education savings account may be expended as authorized by the beneficiary to pay his qualified higher education expenses billed by the institution.

2. Distributions will be made from principal and earnings by applying the ratio that the aggregate amount of contributions to the account for the beneficiary bears to the total balance of the account. If the qualified higher education expenses of the beneficiary for the year are at least equal to the total balance of the account principal and interest, then the earnings in their entirety will be expended. If the qualified higher education expenses of the beneficiary are less than the total amount of the distribution, the qualified higher education expenses will be deemed to be paid from a pro rata share of both the principal and earning components of the account.

F. Payments to Eligible Educational Institutions

1. After the final date for adding or dropping courses without penalty, the institution may bill the START program for the qualified higher education expenses of the beneficiary, up to the amounts specified in the Statement of Available Funds.

2. Upon reconciliation of institutional billing statements, the LATTA will disburse funds from the appropriate accounts, consolidate and forward payment directly to the institution.

3. The LATTA will make all payments for qualified higher education expenses directly to the eligible educational institution.

4. No payments for qualified higher education expenses shall be disbursed directly to the beneficiary.

#### G. Withdrawal During the Academic Term

1. If the designated beneficiary of an education savings account withdraws from the institution prior to the end of the academic term and withdrawals from the education savings account have been used to pay all or part of his qualified higher education expenses for that term, an institutional refund to the education savings account may be required.

2. If any refund is due the beneficiary from the institution, a pro rata share of any refund of qualified higher education expenses, including tuition, equal to that portion of the qualified higher education expenses paid by disbursements from the education savings account, shall be made by the institution to the LATTA.

3. The LATTA will credit any refunded amount to the appropriate education savings account.

#### H. Receipt of Scholarships

1. If the designated beneficiary of an education savings account is the recipient of a scholarship, waiver of tuition, or similar subvention which cannot be converted into money by the beneficiary, the account owner or beneficiary may request a refund from the education savings account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

2. Upon the institution's verification that the beneficiary received a scholarship, waiver or similar subvention, the LATTA will refund, without penalty, the amount to the account owner or the beneficiary, as designated in the depositor's agreement.

I. Advanced Enrollment. A beneficiary may enroll in an eligible educational institution prior to his scheduled date of first-enrollment [see §107] and utilize education savings account funds; however, a beneficiary may not utilize funds from an education savings account prior to one year from the date the account owner made the first deposit opening the account.

J. Part-Time Attendance and Nonconsecutive Enrollment. A beneficiary may utilize funds in an education savings account for enrollments which are nonconsecutive and for part-time attendance at an eligible educational institution. Room and board is only a qualified higher education expense for students who are enrolled at least half time.

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

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

### **§311. Termination and Refund of an Education Savings Account**

A. Account Contributions. Contributions to an education savings account are voluntary.

#### B. Account Terminations

1. The account owner may terminate an account at any time.

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

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

#### C. Refunds

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

2. All other requests for refund will result in the refund of the redemption value and termination of the account.

#### D. Designation of a Refund Recipient

1. In the depositor's agreement, the account owner may designate the beneficiary to receive refunds from the account; however, the beneficiary, if so designated, must be enrolled in an eligible educational institution to be eligible for receipt of any such refund, otherwise the refund will be made directly to the account owner or his estate.

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

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

#### E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate a depositor's agreement if it finds that the account owner or beneficiary provided false or misleading information [see §107].

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

3. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

#### F. Voluntary Termination of an Account without Penalty.

No penalty will be assessed for accounts which are terminated and fully refunded or partially refunded due to the following reasons:

1. the death of the beneficiary; the refund shall be equal to the redemption value of the account, less unexpended tuition assistance grants and interest thereon, and shall be made to the account owner;

2. the disability of the beneficiary; the refund shall be equal to the redemption value of the account, less unexpended tuition assistance grants and interest thereon, and shall be made to the account owner or the beneficiary, as designated in the depositor's agreement;

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

#### G. Voluntary Termination of an Account with Penalty

1. Refunds for any reason other than those specified in §311.E and F will be assessed a penalty of 10 percent of interest earned on principal deposits accumulated in said

account at the time of termination which has not been expended for qualified higher education expenses.

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

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

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

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

3. Refunds made under the provisions of §311.G shall be equal to the redemption value of the education savings account at the time of the refund minus 10 percent of accumulated interest earned on principal deposits which has not been expended for qualified higher education expenses, and shall be made to the person designated in the depositor's agreement.

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

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

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

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

### **§313. Substitution, Assignment, and Transfer**

A. Substitute Beneficiary. The beneficiary of an education assistance account may be changed to a substitute beneficiary provided the account owner completes a Beneficiary Substitution form and the following requirements are met:

1. the substitute beneficiary is a family member as defined under §107.

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

3. if the original beneficiary is an independent student [see §107], meaning he is also the account owner of the account, the substitute beneficiary must be the spouse or child of the account owner.

B. Assignment or Transfer of Account Ownership. The

ownership of an education savings account, and all interest, rights and benefits associated with such, are nontransferable.

#### **C. Changes to the Depositor's Agreement**

1. The account owner may request changes to the depositor's agreement.

2. Changes must be requested in writing and be signed by the account owner.

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

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

5. The account owner will be notified by the LATTA in writing of any changes affecting the depositor's agreement which result from changes in applicable federal and state statutes and rules.

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

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

### **§315. Miscellaneous Provisions**

#### **A. Account Statements and Reports**

1. The LATTA will forward to each account owner a quarterly statement of account which itemizes the:

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

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

c. total tuition assistance grants and interest allocated to the account as of the statement date.

2. Tuition assistance grants shall be allocated annually and reported on the July 1 quarterly statement or no later than the second statement following the account owner's required disclosure of his or her prior year's federal adjusted gross income.

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

B. Tuition Assistance Grants. Tuition assistance grants will be allocated annually and reported on the July 1 statement, or no later than the second statement following the account owner's required disclosure of annual federal adjusted gross income to the LATTA.

#### **C. Earned Interest**

1. Interest earned on principal deposits during a calendar quarter will be credited to accounts and reported to account owners on or about the forty-fifth day of the calendar quarter following the quarter in which the interest was earned, beginning with the first full calendar quarter following the date of the first deposit.

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

#### **D. Refunded Amounts**

1. Interest earned on an education savings account which is refunded to the account owner or beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year

of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

E. Maximum Allowable Account Balance Report

1. The account owner of an education savings account will be notified, in writing, of the maximum allowable account balance.

2. The maximum allowable account balance is based on the cost of qualified higher education expenses for the eligible educational institution designated on the depositor's agreement, projected to the date of the beneficiary's scheduled date of first enrollment.

3. If no eligible educational institution was designated on the depositor's agreement, the maximum allowable account balance will be projected based upon the highest cost in-state eligible public educational institution.

4. If the account owner changes the institution designated on the depositor's agreement, a revised maximum allowable account balance will be calculated and the account owner will be notified of any change.

5. The maximum allowable account balance is revised and reported to account owners annually, and is based upon changes in the cost projections for qualified higher education expenses.

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

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

H. Individual Accounts. The LATTA will maintain an individual account for each beneficiary, showing the redemption value of the account.

I. Confidentiality of Records. All records of the LATTA identifying account owners and designated beneficiaries of education savings accounts, amounts deposited, expended or refunded, are confidential and are not public records.

J. No Investment Direction. No account owner or beneficiary of an education savings account may direct the investment of funds credited to an account.

K. No Pledging of Interest as Security. No interest in an education savings account may be pledged as security for a loan.

L. Excess Funds

1. Principal deposits to an education savings account are no longer accepted once the account total reaches the maximum allowable account balance [see §305.C]; however, the principal and interest earned thereon may continue to earn interest and any tuition assistance grants allocated to the account may continue to accrue interest.

2. Funds in excess of the maximum allowable account balance may remain in the account and continue to accrue interest and may be expended to an eligible educational institution in accordance with §309, or upon termination of the account, will be refunded in accordance with §311.

M. Withdrawal of Funds. Funds may not be withdrawn from an education savings account except as set forth in §309 and §311.

N. NSF Procedure

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

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

O. Effect of a Change in Residency

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

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

3. Tuition assistance grants allocated to an education assistance account are not transferrable nor refundable.

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

Q. Change in Projected School of Enrollment

1. The account owner may redesignate the beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's fully funded or maximum allowable account balance, the account owner will be notified.

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

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

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

Jack L. Guinn  
Executive Director

9807#014

**RULE**

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

Comprehensive Toxic Air Pollutant Emission Control Program (LAC 33:III.5101, 5103, 5107, 5112)(AQ169)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.5101, 5103, 5107, 5112 (AQ169).

This rule revises text to clarify the air toxic regulations, to correct some misspelled words, to revise paperwork requirements, and to revise the release reporting requirements during control equipment bypassing events. The rule also delists caprolactam from the Toxic Air Pollutants Supplemental List because EPA delisted this compound from the Clean Air Act Section 112 list of Hazardous Air Pollutants; also, there are no sources in Louisiana reporting caprolactam.

The basis and rationale for this rule is to clarify the intent of the regulations and to reduce some of the reporting and paperwork requirements. The basis and rationale for delisting caprolactam are to mirror the 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 III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant  
Emission Control Program**

**Subchapter A. Applicability, Definitions, and General  
Provisions**

**§5101. Applicability**

The provisions of this Subchapter apply to the owner or operator of any major source, as defined herein. The provisions of LAC 33:III.5105.A, 5107.A, B, and C, 5111.A.4, and 5113 apply to the owner or operator of any stationary source which was a major source upon promulgation of this Subchapter but which has achieved minor source status through reduction of emissions and reduction of potential to emit. Effective upon promulgation of applicable source category rules in accordance with R.S. 30:2060, the provisions of this Subchapter apply to the owner or operator of any minor source, if specified by such rules. The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:56 (January 1997), LR 24:1276 (July 1998).

**§5103. Definitions, Units, and Abbreviations**

A. The terms in this Subchapter are used as defined in LAC 33:III.111 except for those terms defined herein as follows:

\* \* \*

[See Prior Text]

*Major Source*—any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, or has the potential to emit, in the aggregate, 10 tons per year or more of any toxic air pollutant listed in Table 51.1 or 25 tons per year or more of any combination of toxic air pollutants listed in Table 51.1.

\* \* \*

[See Prior Text in A. Maximum Achievable Control Technology (MACT) - B.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:57 (January 1997), LR 24:1276 (July 1998).

**§5107. Reporting Requirements, Availability of  
Information, and Public Notice Provisions**

\* \* \*

[See Prior Text in A-B.1]

2. Emission Control Bypasses. Except as provided in Subsection B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, where the emission control bypass was not the result of an upset, the owner or operator of the source shall notify the Air Quality Division of the bypass by telephone no later than 24 hours after the beginning of the bypass at (504) 765-0219. Where the emission control bypass was the result of an upset, the owner or operator shall comply with Subsection B.3 of this Section. In the event the Air Quality Division is unable for any reason(s) to receive the notification as required, the owner or operator shall notify the department at (504) 342-1234 within 24 hours after the beginning of the bypass.

\* \* \*

[See Prior Text in B.3-D.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998).

§5112. Tables

Table 51.1 Minimum Emission Rates Toxic Air Pollutants			
CLASS I - Known and Probable Human Carcinogens			
Compounds	Cas Number	Synonyms	Minimum Emission Rate (Pounds/ Year)
* * *			
[See Prior Text in Acrylonitrile -Nickel (and compounds) [1]]			
Nickel (refinery dust) [1]	7440-02-0		25.0
* * *			
[See Prior Text in Propylene Oxide-Vinyl Chloride]			

CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
Compounds	Cas Number	Synonyms	Minimum Emission Rate (Pounds/Year)
* * *			
[See Prior Text in Acetaldehyde-Styrene]			
1, 1, 2, 2-Tetrachloroethane	79-34-5	Acetylene Tetrachloride	300.0
* * *			
[See Prior Text in Tetrachloroethylene-Trichloroethylene]			
Vinylidene Chloride	75-35-4	1, 1-dichloroethylene	1,500.0
* * *			
[See Prior Text in Xylene (mixed isomers) [9]-Zinc (and compounds) [1]]			

\* \* \*

[See Prior Text in Table 51.1.Class III.Acute and Chronic (Non-Carcinogenic) Toxins-Table 51.2.Explanatory Note [12]]

Table 51.3 Louisiana Toxic Air Pollutants Supplemental List*			
Compounds	Cas Number	Class	Synonyms
* * *			
[See Prior Text in Acetamide-Bromoform]			
Calcium Cyanamide	156-62-7	III	
Captan	133-06-2	II	
* * *			
[See Prior Text in Carbaryl-1,3-Propane Sultone]			
beta-Propiolactone	57-57-8	II	2-oxetanone
* * *			
[See Prior Text in Propoxur-Vinyl Bromide]			

\* \* \*

[See Prior Text in Explanatory Notes]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 24:1277 (July 1998).

Gus Von Bodungen  
Assistant Secretary

9807#020

**RULE**

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

Emissions (LAC 33:III.5116, 5122, and 5311)(AQ174\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary has amended the Air Quality Regulatory Division Regulations, LAC 33:III.5116, 5122, and 5311 (AQ174\*).

This rule is identical to a federal regulation found in 40 CFR part 61, subparts L, N, O, and P; 40 CFR part 63, subparts L and EE; 62 FR 37720 (subparts U & JJJ) July 15, 1997, Number 135; 62 FR 42918 (subpart N) August 11, 1997, Number 154; 62 FR 52382 (subpart LL) October 7, 1997, Number 194; and 62 FR 64736 (subpart O) December 9, 1997, Number 236, 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).

This rule incorporates by reference, into LAC 33:III.Chapters 51 and 53, additional federal regulations in 40 CFR parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP). These changes will expedite both the EPA approval process and the state implementation of delegation of authority. Authorization for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, section 112. This rulemaking is applicable to stationary sources statewide. The state has received delegation of authority from EPA to implement NESHAP by "straight" delegation, which requires the state to incorporate into their regulations, rules as promulgated by EPA without change. Louisiana incorporated certain NESHAP regulations by reference on January 20, 1997. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is now incorporating additional NESHAP regulations by reference. The basis and rationale for this rule are to mirror the federal regulations. If the rule is not adopted, it would be a hindrance to Louisiana's authority to implement the NESHAP Program. Louisiana would also fail to meet its 1997/98 EPA grant objectives related to this rule and to delegation revisions.

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

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant  
Emission Control Program**

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR part 61, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
* * *	
[See Prior text in Subpart A-J]	
Subpart L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
Subpart N	National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
Subpart O	National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters
Subpart P	National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
* * *	
[See Prior Text in Subpart V-Appendix C]	

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), LR 23:1658 (December 1997), amended LR 24:1278 (July 1998).

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A-I]	
Subpart L	National Emission Standards for Coke Oven Batteries
* * *	
[See Prior Text in M-DD]	

Subpart EE	National Emission Standards for Magnetic Tape Manufacturing Operations
* * *	
[See Prior Text in Subpart GG-Appendix D]	

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1997, through December 31, 1997, and on April 15, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart N	62 FR 42918	August 11, 1997	National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
Subpart O	62 FR 64736	December 9, 1997	National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations
Subpart S	63 FR 18616	April 15, 1998	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry [exclusive of paragraph 63.440(d)(1)]
Subpart U	62 FR 37720	July 15, 1997	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
Subpart LL	62 FR 52383	October 7, 1997	National Emission Standards for Hazardous Air Pollutants for Source Categories; National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
Subpart JJJ	62 FR 37720	July 15, 1997	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
Appendix A	63 FR 18630	April 15, 1998	Test Methods

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998).

**Chapter 53. Area Sources of Toxic Air Pollutants**  
**Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1997, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998).

Gus Von Bodungen  
Assistant Secretary

9807#022

**RULE**

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

Federal Transportation Conformity  
(LAC 33:III.Chapter 14)(AQ172\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 14.Subchapter B (AQ172\*).

This rule is identical to a federal regulation found in 40 CFR part 63, subpart A as amended in 62 FR 43802-43818, August 15, 1997, Number 158, 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).

The rule repeals the existing state transportation conformity rule with the exception of two sections. The rule incorporates by reference the federal requirements established in 40 CFR part 93, subpart A, that transportation plans, programs, and projects which are developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act conform to state or federal implementation plans. The state is required to submit a State Implementation Plan (SIP) revision to EPA that includes an enforceable transportation conformity rule. Promulgation of this rule enables the state to submit the required transportation conformity SIP. The basis and rationale for this rule are to mirror the amendments to the federal transportation conformity regulations published on August 15, 1997 in 62 FR 43802-43818.

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

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

**Chapter 14. Conformity**

**Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act**

LAC 33:III.Chapter 14.Subchapter B is hereby repealed with the exception of LAC 33:III.1431. In addition, §1441 is being renumbered to §1434.

**§1432. Incorporation by Reference**

40 CFR part 93, subpart A, sections 101-128 found in the *Federal Register*, volume 62, No. 158, August 15, 1997, pages 43802-43818 are hereby incorporated by reference with the exclusion of sections 102(d) and 105.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:1280 (July 1998).

**§1433. Definitions**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

**§1434. Consultation (Previously §1441)**

\* \* \*

[See Prior Text in A-E]

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

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:1280 (July 1998).

**§1435. Applicability**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

**§1437. Priority**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

**§1439. Frequency of Conformity Determinations**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

**§1441. Consultation—moved to §1434**

**§1443. Content of Transportation Plans**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

**§1445. Relationship of Transportation Plan and TIP Conformity with the NEPA Process**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

**§1447. Fiscal Constraints for Transportation Plans and TIPs**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

**§1449. Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1280 (July 1998).

**§1451. Criteria and Procedures: Latest Planning Assumptions**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1453. Criteria and Procedures: Latest Emissions Model**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1455. Criteria and Procedures: Consultation**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1457. Criteria and Procedures: Timely Implementation of TCMs**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1459. Criteria and Procedures: Currently Conforming Transportation Plan and TIP**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1461. Criteria and Procedures: Projects from a Plan and TIP**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1463. Criteria and Procedures: Localized CO and PM<sub>10</sub> Violations (Hot-Spots)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1465. Criteria and Procedures: Compliance with PM<sub>10</sub> Control Measures**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1467. Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1469. Criteria and Procedures: Motor Vehicle Emissions Budget(s) (TIP)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1471. Criteria and Procedures: Motor Vehicle Emissions Budget (Project not from a Plan and TIP)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1473. Criteria and Procedures: Localized CO Violations (Hot-Spots) in the Interim Period**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1475. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (Transportation Plan)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1477. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (TIP)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1281 (July 1998).

**§1479. Criteria and Procedures: Interim Period Reductions for Ozone and CO Areas (Project not From a Plan and TIP)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1481. Criteria and Procedures: Interim Period Reductions for PM<sub>10</sub> and NO<sub>2</sub> Areas (Transportation Plan)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1483. Criteria and Procedures: Interim Period Reductions for PM<sub>10</sub> and NO<sub>2</sub> Areas (TIP)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1485. Criteria and Procedures: Interim Period Reductions for PM<sub>10</sub> and NO<sub>2</sub> Areas (Project not from a Plan and TIP)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1487. Transition from the Interim Period to the Control Strategy Period**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1489. Requirements for Adoption or Approval of Projects by Recipients of Funds Designated Under Title 23 U.S.C. or the Federal Transit Act**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1491. Procedures for Determining Regional Transportation-Related Emissions**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1493. Procedures for Determining Localized CO and PM<sub>10</sub> Concentrations (Hot-Spot Analysis)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1495. Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1496. Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1497. Exempt Projects**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1498. Projects Exempt from Regional Emissions Analysis**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repealed LR 24:1282 (July 1998).

**§1499. Special Provisions for Nonattainment Areas Which are not Required to Demonstrate Reasonable Further Progress and Attainment**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Gus Von Bodungen  
 Assistant Secretary

9807#023

**RULE**

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

**Hazardous Air Pollutants for Source  
 Categories (LAC 33:III.5122)(AQ160\*)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.Chapter 51.Subchapter C (AQ160\*).

This rule is identical to a federal law or regulation, 40 CFR Part 63, Subpart S, 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). 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. This rule establishes Maximum Achievable Control Technology (MACT) for the pulp and paper industry and is identical to the federal rule 40 CFR Part 63, Subpart S adopted November 14, 1997. The federal rule has been published in the *Federal Register* as a final regulation. The *Federal Register* citation and date promulgated has been added to the rule. Per LAC 33:III.5105.B.8, a MACT determination for the pulp and paper industry source category was required to be established and proposed by December 20, 1997. The basis and rationale for this rule are to mirror the federal regulation 40 CFR Part 63, Subpart S, with the exception of 63.440(d)(1). Rulemaking to add this paragraph with a statutorily required compliance date will be initiated at a later date.

**Title 33  
 ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant  
 Emission Control Program**

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

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

\* \* \*

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1997, through December 31, 1997, and on April 15, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
* * * [See Prior Text in Subpart N-O]			
Subpart S	63 FR 18616	April 15, 1998	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry [exclusive of paragraph 63.440(d)(1)]
* * * [See Prior Text in Subpart U-JJJ]			
Appendix A	63 FR 18630	April 15, 1998	Test Methods

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

**HISTORICAL NOTE:** Promulgated by the Department of

Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1283 (July 1998).

Gus Von Bodungen  
Assistant Secretary

9807#025

**RULE**

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

New Stationary Sources  
(LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30)(AQ171\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30 (AQ171\*).

This rule is identical to a federal regulation found in 40 CFR Part 60, July 1, 1997, 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 proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule updates the reference to the Code of Federal Regulations (CFR) contained in LAC 33:III.Chapter 30 to those regulations published in 40 CFR part 60 in July 1997. This revision clarifies that all 40 CFR part 60 references that appear in LAC 33:III.Chapters 5, 15, 21, 23, 25, and 30 are as incorporated by reference in LAC 33:III.Chapter 30. Areas of state and federal authority are more clearly defined with this rule. The basis and rationale for this rule are to update the CFR reference and clarify the department's authority related to 40 CFR part 60 and proper reporting procedures.

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

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

**Chapter 5. Permit Procedures  
§509. Prevention of Significant Deterioration**

\* \* \*

[See Prior Text in A-A.2]

B. Definitions. For the purpose of this Part the terms below shall have the meaning specified herein as follows:

\* \* \*

[See Prior Text]

*Reconstruction*—will be presumed to have taken place where the fixed capital cost of the new component exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has

occurred must be made in accordance with the provisions of 40 CFR 60.15(f).(1)-(3), as incorporated by reference in LAC 33:III.Chapter 30.

\* \* \*

[See Prior Text in B. Secondary Emissions-S.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998).

**Chapter 15. Emission Standards for Sulfur Dioxide  
§1503. Emission Limitations**

As used in this Section a *three-hour average* means the average emissions for any three consecutive one-hour periods (each commencing on the hour), provided that the number of three-hour periods during which the SO<sub>2</sub> limitation is exceeded is not greater than the number of one-hour periods during which the SO<sub>2</sub> limitation is exceeded.

A. Sulfuric Acid Plants—New and Existing. The emissions of sulfur dioxide and acid mist from new sulfuric acid production units that commence construction or modification after August 17, 1971, shall be limited to that specified in 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, i.e., 4.0 pounds/ton of 100 percent H<sub>2</sub>SO<sub>4</sub> (2 kilograms/metric ton) and 0.15 pounds/ton of 100 percent H<sub>2</sub>SO<sub>4</sub> (.075 kilograms/metric ton) respectively (three-hour averages). Emissions from existing units shall be limited as follows: SO<sub>2</sub>—not more than 2000 ppm by volume (three-hour average); acid mist—not more than 0.5 pounds/ton of 100 percent H<sub>2</sub>SO<sub>4</sub> (three-hour average).

B. Sulfur Recovery Plants—New and Existing. The emission of sulfur oxides calculated as sulfur dioxide from a new sulfur recovery plant that commences construction or modification after October 4, 1976, shall be limited to that specified in 40 CFR 60.104(a)(2), as incorporated by reference in LAC 33:III.Chapter 30. The emission of sulfur oxides calculated as sulfur dioxide from an existing plant shall be limited to a sulfur dioxide concentration of not more than 1,300 ppm by volume (three-hour average).

\* \* \*

[See Prior Text in C-Table 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:374 (April 1992), LR 22:1212 (December 1996), LR 23:1677 (December 1997), LR 24:1284 (July 1998).

**§1507. Exceptions**

**A. Start-up Provisions**

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in

LAC 33:III.Chapter 30, that have been shut down. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

\* \* \*

[See Prior Text in A.2-B]

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

\* \* \*

[See Prior Text in B.2-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998).

## **Chapter 21. Control of Emission of Organic Compounds**

### **Subchapter A. General**

#### **§2108. Marine Vapor Recovery**

\* \* \*

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

2. Vapor processing systems utilizing a flare stack to destruct the collected VOCs will be exempt from testing and must be designed and operated in accordance with 40 CFR 60.482-10(d), as incorporated by reference in LAC 33:III.Chapter 30.

\* \* \*

[See Prior Text in E.3-H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:21 (January 1998), LR 24:1285 (July 1998).

#### **§2122. Fugitive Emission Control for Ozone Nonattainment Areas**

\* \* \*

[See Prior Text in A-A.5]

6. Applicable facilities as defined in Subsection A.1 of this Section, which are subject to New Source Performance Standards, 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, may become exempt from this Section by:

a. submitting a written notice to the administrative authority\* informing them of the facility's request to become exempt from this Section and how 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, will be administered to obtain that exemption;

b. applying 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, to leak limitations specified in Subsection C.1 of this Section rather than 10,000 ppm as specified in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30;

c. including connectors as leak sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, which apply to valves; and

d. increasing monitoring frequency only when the leaking sources monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), or 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.Chapter 30, which apply to valves, equal or exceed 2 percent of the valves monitored at or above 10,000 ppm.

\* \* \*

[See Prior Text in B-C.1.c]

d. Any pump or valve in heavy liquid service observed leaking by sight, sound, or smell shall be monitored within five days by the method specified in 40 CFR part 60, appendix A (Method 21), as incorporated by reference in LAC 33:III.Chapter 30. If the pump or valve is determined to be leaking in excess of the applicable limits given in this Subsection, it shall be repaired according to Subsection C.3 of this Section.

\* \* \*

[See Prior Text in C.2-G.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998).

### **Subchapter B. Organic Solvents**

#### **§2123. Organic Solvents**

\* \* \*

[See Prior Text in A-E.5]

6. Performance test procedures described in 40 CFR 60.444, as incorporated by reference in LAC 33:III.Chapter 30;

\* \* \*

[See Prior Text in E.7-G. Repair and Maintenance Thermoplastic Coating]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998).

**Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)**

**§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations**

\* \* \*

[See Prior Text in A-D.2]

3. The following methods in 40 CFR part 60, appendix A, as incorporated by reference in LAC 33:III.Chapter 30, shall be used to demonstrate compliance with the emission limit or percent reduction efficiency requirement listed in Subsection C.1.a of this Section.

\* \* \*

[See Prior Text in D.3.a-e]

4. When a flare is used to comply with the control requirements of this Subchapter, the flare shall comply with the requirements of 40 CFR 60.18, as incorporated by reference in LAC 33:III.Chapter 30.

\* \* \*

[See Prior Text in D.5-Figure 1]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:1508 (November 1997), LR 23:1510 (November 1997), LR 23:1679 (December 1997), LR 24:1286 (July 1998).

**§2160. Procedures**

The following are Procedures F.1, F.2, G.1, G.2, L, and T to be used with the test protocols above:

\* \* \*

[See Prior Text in A-A.4.c.i.(d)]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

\* \* \*

[See Prior Text in A.5-C.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

\* \* \*

[See Prior Text in C.5-D.4.c.iv]

d. Alternative Procedure. The direct interface sampling and analysis procedure described in 40 CFR part 60, appendix A, Method 18, 7.2-7.2.5, as incorporated by

reference in LAC 33:III.Chapter 30, may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

\* \* \*

[See Prior Text in D.5-F.6.b.iii]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998).

**Chapter 23. Control of Emissions for Specific Industries<sup>1</sup>**

**Subchapter D. Nitric Acid Industry**

**§2307. Emission Standards for the Nitric Acid Industry**

\* \* \*

[See Prior Text in A-C.1]

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the administrative authority within seven calendar days of the occurrence.

\* \* \*

[See Prior Text in C.1.b-C.2]

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the administrative authority within seven calendar days of the occurrence.

\* \* \*

[See Prior Text in C.2.b-H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998).

**Chapter 25. Miscellaneous Incineration Rules**

**Subchapter B. Biomedical Waste Incinerators**

**§2511. Standards of Performance for Biomedical Waste Incinerators**

\* \* \*

[See Prior Text in A-A.2]

B. Definitions. The words and terms used in this Subchapter are defined in LAC 33:III.Chapter 51, and LAC 33:III.111 and 40 CFR 60.2, as incorporated by reference

in LAC 33:III.Chapter 30, unless otherwise specifically defined as follows:

\* \* \*

[See Prior Text in B. Antineoplastic Agents-L]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998).

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference (IBR)**

**§3003. IBR 40 Code of Federal Regulations (CFR) Part 60**

A. Except as modified in this Section, regulations at 40 CFR part 60 as revised July 1, 1997, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
* * * [See Prior Text in A-Ca]	
Cb	Emissions Guidelines and Compliance Schedules for Municipal Waste Combustors That Are Constructed on or Before December 19, 1995
Cc	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
Cd	Emissions Guidelines and Compliance Times for Sulfuric Acid Production Units
D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971
* * * [See Prior Text in Da-K]	
Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984
* * * [See Prior Text in L-M]	
N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
* * * [See Prior Text in Na-X]	
Y	Standards of Performance for Coal Preparation Plants
* * * [See Prior Text in Z-LL]	

MM	Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations
* * * [See Prior Text in NN-SS]	
TT	Standards of Performance for Metal Coil Surface Coating
* * * [See Prior Text in UU-MMM]	
NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
* * * [See Prior Text in OOO-WWW]	

\* \* \*

[See Prior Text in Table 1.A. 40 CFR Part 60 Appendices]

B. Final regulations published in the *Federal Register* on September 15, 1997, and specified below in Table 2, are hereby incorporated by reference as they apply to the State of Louisiana.

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart/Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart A	General Provisions	62 FR 48379	September 15, 1997
* * * [See Prior Text in Subpart Ce-Subpart Ec]			

C. Corrective modification and clarification are made as follows:

1. whenever the referenced regulations (i.e., 40 CFR part 60) provide authority to “the Administrator,” such authority in accordance with these regulations shall be exercised by the assistant secretary of the Office of Air Quality and Radiation Protection subject to continuing supervision by the secretary, not withstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR part 60) to be provided to “the Administrator” shall be provided to the Office of Air Quality and Radiation Protection where the state is designated authority by EPA as “the Administrator” or shall be provided to the Office of Air Quality and Radiation Protection and EPA where EPA retains authority as “the Administrator”;

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T), to read as follows: State of Louisiana: Program Administrator, Air Quality Division, Louisiana Department of Environmental Quality, Post Office Box 82135, Baton Rouge, Louisiana 70884-2135; and

3. the availability to the public of information provided to or otherwise obtained by the state under this Chapter shall be governed by LAC 33:I.501-509.

\* \* \*

[See Prior Text in D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998).

Gus Von Bodungen  
Assistant Secretary

9807#024

**RULE**

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

**Reportable Quantity List  
(LAC 33:I.3931)(OS023A\*)**

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 Office of the Secretary regulations, LAC 33:I.3931 (OS023A\*).

This rule is identical to federal law or regulation, 40 CFR 117.3 (7/1/97 Edition) Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and 40 CFR 302.4 (7/1/97 Edition) Table 302.4—List of Hazardous Substances and Reportable Quantities; Appendix A to Section 302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances, which are 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). This proposed 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.

The Reportable Quantity List for Pollutants will be replaced by an incorporation by reference to the corresponding federal lists. Incorporation of the federal lists will add an additional 361 compounds and adjust the reporting thresholds for 81 compounds in Louisiana's regulations. The amendments will make the state list more consistent with the federal EPA lists and simplify future revisions. Existing state reportable quantities that differ from the federal lists have been preserved in a Modifications or Exceptions table. EPA made significant amendments to the federal reportable quantity lists in June 1995 and May 1996. The department amended its reportable quantity list to add new listings and adjust existing listings. Public comment on the proposal included a suggestion to adopt federal reporting thresholds by reference. The basis and rationale for this rule are to assure the Reportable Quantity List

for Pollutants in Louisiana is equivalent to the EPA reportable quantity lists. Comparison of federal and state reportable quantity lists will be unnecessary for most pollutants. Eliminating the need to refer to multiple lists during a release will minimize confusion and delays that could worsen an emergency condition.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 2. Notification Regulations**

**Chapter 39. Notification Regulations and Procedures  
for Unauthorized Discharges**

**Subchapter E. Reportable Quantities for Notification  
of Unauthorized Discharges**

**§3931. Reportable Quantity List for Pollutants**

A. Incorporation by Reference of Federal Regulations. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

1. 40 CFR 117.3 (7-1-97 Edition) Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4 (7-1-97 Edition) Table 302.4—List of Hazardous Substances and Reportable Quantities; Appendix A to §302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.

Pollutant	CAS No. <sup>1</sup>	RCRA <sup>2</sup> Waste Number	Pounds
Allyl chloride	107051		1000/10 <sup>®</sup>
Aniline	62533	U012	5000/1000 <sup>®</sup>
Antimony*	7440360		5000/100 <sup>®</sup>
Antimony Compounds	20008		100 <sup>®</sup>
Barium*	7440393		100 <sup>®</sup>
Barium compounds	20020		100 <sup>®</sup>
Benzenamine	62533	U012	5000/1000 <sup>®</sup>
Biphenyl	92524		100/100 <sup>®</sup>
1-Butanol	71363	U031	5000/1000 <sup>®</sup>
2-Butanone	78933	U159	5000/1000 <sup>®</sup>
n-Butyl alcohol	71363	U031	5000/1000 <sup>®</sup>
Carbonic dichloride	75445	P095	10/1 <sup>®</sup>
Carbonyl sulfide	463581		100/100 <sup>®</sup>
Chlorinated Dibenzo Furans, all isomers			1
Chlorine Dioxide	10049044		1
Chromium <sup>3</sup> *	7440473		5000/100 <sup>®</sup>
Chromium compounds	20064		100 <sup>®</sup>
Copper <sup>3</sup>	7440508		5000/100 <sup>®</sup>

Copper Compounds	20086		100 <sup>Ⓔ</sup>
Cumene	98828	U055	5000/1000 <sup>Ⓔ</sup>
1,3-Dichloropropylene	542756		100 <sup>Ⓔ</sup>
Ethyl acrylate	140885	U113	1000/10 <sup>Ⓔ</sup>
Ethylene	74851		5000
Ethylene glycol	107211		5000/5000 <sup>Ⓔ</sup>
Glycol ethers **			100 <sup>Ⓔ</sup>
Hexane	110543		5000/1000 <sup>Ⓔ</sup>
Hydrochloric acid	7647010		5000/1000 <sup>Ⓔ</sup>
Hydrofluoric acid	7664393	U134	100/10 <sup>Ⓔ</sup>
Hydrogen chloride	7647010		5000/1000 <sup>Ⓔ</sup>
Hydrogen fluoride	7664393	U134	100/10 <sup>Ⓔ</sup>
1,3-Isobenzofurandione	85449	U190	5000/1000 <sup>Ⓔ</sup>
Manganese*	7439965		100 <sup>Ⓔ</sup>
Manganese compounds			100 <sup>Ⓔ</sup>
Methanethiol	74931	U153	100/25 <sup>Ⓔ</sup>
Methyl acrylate	96333		10 <sup>Ⓔ</sup>
Methyl ethyl ketone (MEK)	78933	U159	5000/1000 <sup>Ⓔ</sup>
Methyl isobutyl ketone	108101	U161	5000/1000 <sup>Ⓔ</sup>
Methylmercaptan	74931	U153	100/25 <sup>Ⓔ</sup>
Methyl methacrylate	80626	U162	1000/100 <sup>Ⓔ</sup>
4-Methyl-2-pentanone	108101	U161	5000/1000 <sup>Ⓔ</sup>
Methylene diphenyl isocyanate	101688		1000 <sup>Ⓔ</sup>
Nitric acid	7697372		1000/100 <sup>Ⓔ</sup>
Oil			1 barrel
Phthalic anhydride	85449	U190	5000/1000 <sup>Ⓔ</sup>
Polynuclear Aromatic Hydrocarbons ***			1
Produced Water			1 barrel
2-Propenoic acid, ethyl ester	140885	U113	1000/10 <sup>Ⓔ</sup>
2-Propenoic acid, 2-methyl-, methyl ester	80626	U162	1000/100 <sup>Ⓔ</sup>
Propionaldehyde	123386		1000/100 <sup>Ⓔ</sup>
Strontium sulfide	1314961	P107	100
Sweet Pipeline Gas (Methane/Ethane)			42000 (1,000,000 scf)
Thiomethanol	74931	U153	100/25 <sup>Ⓔ</sup>
Vinyl acetate	108054		5000/100 <sup>Ⓔ</sup>
Vinyl acetate monomer	108054		5000/100 <sup>Ⓔ</sup>
Volatile Organic Compounds not otherwise listed <sup>4</sup>			5000

F003 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:		F003	100
Methyl isobutyl ketone	108101		5000/1000 <sup>Ⓔ</sup>
n-Butyl alcohol	71363		5000/1000 <sup>Ⓔ</sup>
F005 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:		F005	100
Methyl ethyl ketone	78933	U159	5000/1000 <sup>Ⓔ</sup>

\* No reporting of releases into the ambient air of this metal is required if the diameter of the pieces of solid metal released is equal to or exceeds 100 micrometers (0.004 inches).

\*\* The combined emissions of all glycol ethers shall be totaled to determine if a Reportable Quantity has been exceeded.

\*\*\* The combined emissions of all Polynuclear Aromatic Hydrocarbons (PAHs), excluding any PAHs otherwise listed, shall be totaled to determine if a Reportable Quantity has been exceeded.

<sup>1</sup> Chemical Abstracts Service Registry Number.

<sup>2</sup> Resource Conservation and Recovery Act of 1976, as amended.

<sup>3</sup> Prompt notification of releases of massive forms of these substances is not required if the diameter of the pieces of the substance released is equal to or exceeds 100 micrometers (0.004 inches).

<sup>4</sup> The combined emissions of all volatile organic compounds (VOCs), excluding any VOCs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded. VOC is defined in LAC 33:III.111 and exempt compounds are listed in LAC 33:III.2117.

<sup>Ⓔ</sup> The first RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into or onto all media within any consecutive 24-hour period. The second RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into the atmosphere.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C), 30:2204(A), and 30:2373(B).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998).

Herman Robinson  
Assistant Secretary

9807#021

## RULE

### Department of Environmental Quality Office of Waste Services

RCRA Updates (LAC 33:V.3105)(HW061\*)

*(Editor's Note: A portion of the following rule, which appeared on pages 654-687 of the April 20, 1998, Louisiana Register, is being republished to correct an error. The first See Prior Text explanation in §3105.Table 1 did not reflect the hazardous constituent A2213 that was added to the table in the*

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part V. Hazardous Waste and Hazardous Materials**  
**Subpart 1. Department of Environmental**  
**Quality—Hazardous Waste**  
**Chapter 31. Incinerators**  
**§3105. Applicability**

\* \* \*  
 [See Prior Text in A-E]

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * * [See Prior Text in A2213 - Beryllium compounds, N.O.S. <sup>1</sup> ]			
Bis (pentamethylene)- thiuram tetrasulfide	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-	120-54-7	U400
* * * [See Prior Text in Bromoacetone - Ziram]			

<sup>1</sup>The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

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 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), repromulgated LR 24:1290 (July 1998).

H.M. Strong  
 Assistant Secretary

9807#026

**RULE**

**Office of the Governor**  
**Office of Rural Development**

Projects, Funding and Application Process  
 (LAC 4:VII.1901 and 1903)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and under the statutory authority of R.S. 3:311 et seq., the Rural Development Law, the Office of the Governor, Office of Rural Development adopts the following Rule, LAC 4:VII.1901 and 1903.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 19. Rural Development**

**§1901. Projects or Activities**

A. The Office of Rural Development (ORD) provides financial assistance to local units of government throughout the state mitigating the effects of natural and economic emergencies and funding units of local government projects essential to community well-being.

B. Municipalities with populations of less than 35,000 and parishes with populations of less than 100,000 inhabitants will be considered rural for the purposes of this program.

C. The ORD applies the following guidelines to any project or activity funded.

1. All projects or activities funded must be related to rural development revitalization of a rural area, as defined in R.S. 3:313.

2. All funds shall be used to mitigate the rapid deterioration or assist the improvement of rural health, education, agribusiness, transportation, public facilities, tourism, infrastructure, or other defined purposes essential to the socioeconomic well-being and quality of life of Louisiana's rural areas.

3. Projects or activities should further enhance community services and broaden rural employment opportunities whenever possible.

4. Projects or activities should further the provisions of the Rural Development Law, R.S. 3:311-323.

5. At the start of each fiscal year, the executive director shall determine the equal funding level for all eligible

parishes, which includes villages, towns and cities within each parish as well as the parish government, based on the total amount budgeted as aid to local governments for rural development grants. The ORD shall make awards to all parishes throughout the year up to that equal funding level.

6. In cases where the eligibility of the parish is limited (parishes over 100,000 in population with eligible unincorporated areas or eligible municipalities), the parish shall be funded to the maximum of those eligible levels so long as the amount does not exceed the amount to which rural parishes are eligible.

7. Parish governments may request funding for projects that serve a parish-wide area or an unincorporated area within the parish. In cases where a parish's application is for funding a project that is not parish-wide in scope and is designed to benefit an incorporated area within the parish, the governing body of the parish must submit a resolution of support for the project stating that determination.

8. Municipal governments (villages, towns, cities) may not exceed the total funding level as outlined in the ORD application guidelines for rural development grant funds for any fiscal year by having a parish government submit an application to fund a project within the corporate limits of a village, town or city, unless the project is a service that extends beyond the corporate limits and serves an adjoining portion of the parish or unless the project is in response to an emergency officially declared as defined by state law (R.S. 38:2211 et seq.).

9. Grants approved by the ORD are expected to be completed within one year from the date of signing of the letter of commitment by the executive director of ORD. Extensions will be limited to two on each grant and an extension must be approved in writing by the executive director of ORD.

10. Rural development funds are not intended for salary only projects or ongoing salaried positions.

11. All invoices submitted for reimbursement must be in original form and marked by vendor to identify the invoice as expenses related to the approved ORD grant using the grant number furnished by ORD at the time of issuing the approved letter of commitment.

12. There shall not be awarded to any Local Governmental Agency (LGA), municipal or parish, an additional grant if a previous grant to that LGA is still open past a period of 24 months.

13. Changes or amendments to an application must be in writing and must be approved by the executive director in writing. If the change in an application is so great that it goes from one category to another, the request must include a new abstract and a new budget and must be accompanied by a new resolution of support from the LGA's governing body.

14. Multi-parish regional projects are not intended to be funded by ORD funds, however, if each parish in a region agrees to fund a project that meets the criteria of the ORD grants, with the agreement of its local governing authority and the legislative delegation of that region, the total amount of the regional grant shall be prorated to each parish in that region. The prorated amount shall come out of the total allocated to each participating parish for that fiscal year.

15. A regional project may be funded, provided the legislature appropriates funding for a named regional project above the general appropriation for the ORD. *Regional* is defined as more than one municipality collaborating on a project parish-wide or more than one parish.

D. The director of the ORD shall develop an application procedure satisfying the purposes, intentions, and the implications of regulatory provisions contained in the Rural Development Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:1290 (July 1998).

### **§1903. Application Process**

A. Rural development applications are available from the Office of Rural Development to all who request them. All requests for information may be submitted via mail to the Office of Rural Development, Box 94004, Baton Rouge, LA 70804-9004.

B. Municipalities, parish governments, school boards, other units of government, and special districts are eligible to apply for rural development funds. All applicants must be authorized by law to perform governmental functions and be provided governmental body support, and must be subject to state audit.

C. Current population figures are used to determine the eligibility for funding of municipalities based on appropriations by the legislature. The funding is outlined in the ORD application guidelines for rural development grant funds.

D. Funds from this program cannot be used to pay consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party, or for previously created debt.

E. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the criteria for funding.

F. Payment shall be made to the Local Governmental Agency which is the project sponsor upon production of invoices and approval of the LGA's request for payment by ORD, according to the agreed terms of a signed and executed letter of commitment.

G. Project funds shall be spent only for the project as described in the grant application designated by the same number as the project award. Changes in the project description and extension of the agreed time for completion must be made in writing, subject to the approval of ORD.

H. Use of grant funds for any project other than that described in the grant application or amended application, or in violation of any terms of the application or letter of commitment/agreement, will be grounds for ORD to terminate the agreement and revoke the funds for the project.

I. All invoices related to the project are the responsibility of the LGA project sponsor, and must be submitted to and approved by ORD before the funds will be released to the LGA, which remains responsible for payment to its vendors in the project.

J. The LGA as project sponsor will agree to hold harmless the State of Louisiana, Office of the Governor, and Office of

Rural Development as a term and condition of the letter of commitment/agreement.

K. ORD will de-obligate funds from any unexpended amount, whether by failure to start a project in the agreed upon time frame in the letter of commitment or by unexpended funds in an officially closed project, and from revoked grant awards.

L. Failure of the LGA project sponsor to abide by any article of the local agency assurances section of the grant application or of the letter of commitment/agreement, including state audit procedures, federal and state laws, state ethical rules and policy guidelines of the ORD, shall result in revocation of the grant award and the responsibility of the LGA project sponsor to repay project funds released to it by ORD up to the full amount of the grant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:1291 (July 1998).

Larry Kinlaw  
Executive Director

9807#016

## RULE

### Department of Health and Hospitals Board of Dentistry

Comprehensive Rule Revisions  
(LAC 46:XXXIII.710 and 714)

Editor's Note: The following Sections concerning the administration of local anesthesia by hygienists were part of the notice of intent published in the January 1998 *Louisiana Register*, pages 208 and 209.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 7. Dental Hygienists

#### §710. Administration of Local Anesthesia for Dental Purposes

A. After satisfying the board of his or her competence to administer local anesthesia, a licensed dental hygienist may qualify for a special endorsement to administer local anesthesia for dental procedures under the direct on-premises supervision of a licensed dentist.

B. Competence to administer local anesthesia must be demonstrated to the board by successful completion of a course of study of at least 72 hours of instruction in a formal program in administration of local anesthesia sponsored by an institutional program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board. A certificate of course completion and a copy of the syllabus must be submitted to the board for approval. The course must include didactic studies and clinical experience in the administration of long buccal, maxillary and mandibular infiltration anesthesia, mental block anesthesia, lingual nerve block, inferior alveolar nerve block anesthesia,

medical history and physical evaluation of the patient, and the prevention, diagnosis, and management of medical emergencies which can be encountered in the dental patient. A minimum of 20 satisfactory injections is required.

C. The curriculum for required study must include, but is not necessarily limited to:

1. medical history evaluation procedures;
2. physical evaluation;
3. CPR certification in accordance with board rules;
4. understanding pharmacology of local anesthesia and vasoconstrictors;
5. local anesthesia, didactic, and clinical course:
  - a. anatomy of head, neck, and oral cavity as it relates to administering local anesthetic agents;
  - b. indications and contraindications for administration of local anesthesia;
  - c. selection and preparation of the armamentaria and record keeping for administering various local anesthetic agents;
  - d. medical and legal management complications;
  - e. recognition and management of post-injection complications and management of reactions to injections;
  - f. proper infection control techniques with regard to local anesthesia and proper disposal of sharps;
  - g. methods of administering local anesthetic agents with emphasis on:
    - i. technique;
      - (a). aspiration;
      - (b). slow injection; and
    - ii. minimum effective dosage.
6. medical emergency, prevention, diagnosis, and management.

D. Upon satisfactory completion of the application process, the applicant must pass the board-administered written examination in the administration of local anesthesia.

E. A dental hygienist who has been licensed and trained in a course equivalent to §710.B and C to administer local anesthesia in another state may qualify, at the discretion of the board, to take the examination by presenting written documentation of such licensure and training to the board and documentation of experience in the past two years and by gaining approval of the board through the interview process.

F. A dental hygienist can maintain local anesthesia privileges by administering at least 50 patient visits using local anesthetic injection during the previous five years, documented by a log book to include date of visit, patient name, supervising dentist, purpose of injection, and any adverse reaction or complication. Otherwise, he or she must satisfy the board of competence to administer local anesthesia by successfully completing a course of 72 hours of studies that satisfies the curriculum requirements of §710.

G. A licensed dental hygienist who has demonstrated competence to the satisfaction of the board may qualify for a special endorsement and may undertake the administration of local anesthesia by:

1. successfully completing the written examination administered by the board;
2. substantiating the adequacy of training; and
3. limiting administration of local anesthesia as provided by these rules.

H. The endorsement shall be for a period of five years and renewable with documentation of experience as described in §710.F.

I. Any hygienist who is not certified by the state of Louisiana in local anesthesia and who performs such a procedure is subject to severe sanctions up to and including revocation of his/her license. The dentist under whose instructions he/she performed the procedure will be subject to severe sanctions up to and including revocation of the dentist's license.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998).

**§714. Administration of Local and/or Block Anesthesia by Dental Hygienists Licensed by Credentials**

Dental hygienists who are licensed in the state of Louisiana by credentials and who have been certified to administer long buccal, maxillary and mandibular infiltration anesthesia, mental block anesthesia, lingual nerve block, and inferior alveolar nerve block anesthesia, in a state of previous licensure, and who wish to administer long buccal, maxillary and mandibular infiltration anesthesia, mental block anesthesia, lingual nerve block, and inferior alveolar nerve block anesthesia in Louisiana, must have gained their certification by successfully completing a course in the administration of anesthesia equivalent to or greater than the course required of Louisiana dental hygienists as set forth in this Chapter.

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 24:1293 (July 1998).

C. Barry Ogden  
Executive Director

9807#067

**RULE**

**Department of Health and Hospitals  
Board of Nursing**

Comprehensive Rule Revisions  
(LAC 46:XLVII.Chapters 31- 43)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:911 et seq., has amended LAC 46:XLVII.Chapters 31 - 43, pertaining to nursing practice, employment of unlicensed persons, nursing function delegation, Hepatitis B and HIV viruses transmission prevention, educational programs, disciplinary proceedings, and financial disclosure.

The full text of these rules may be obtained by contacting the Office of the State Register, 1051 North Third Street,

Baton Rouge, LA 70802, (504)342-5015 or by contacting the State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002, (504)838-5396.

Barbara L. Morvant, RN, MN  
Executive Director

9807#037

**RULE**

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

Preceptorship Program  
(LAC 46:LXXXV.1103)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1103 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 11. Preceptorship Program**

**§1103. Definitions**

\* \* \*

*Preceptorship Program*—a preceptorship program approved by the Louisiana Board of Veterinary Medicine which involves no less than five nor more than 10 weeks.

1. - 4. ...

5. Changes in the program that are effective on or after May 1, 1998, shall not apply to students graduating in calendar years prior to 2000.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:968 (August 1997), LR 24:1293 (July 1998).

Charles B. Mann  
Executive Director

9807#055

**RULE**

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

Licensure (LAC 46:LX.703, 705, and 801)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has

amended the following with regard to licensing and renewal requirements.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

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

**Chapter 7. Requirements for Licensure**

**§703. Licensing Requirements**

A.1. - 5. ...

6. can document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree, provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits;

7. ...

8. has received a graduate degree, the substance of which is professional mental health counseling in content from a regionally accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 48 graduate semester hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling (as defined by rules adopted by the board listed under Chapter 5), which shall not be interpreted to exclude post-graduate course work in mental health counseling, as part of the degree plan containing 48 graduate hours including eight content areas, practicum and internship approved by the Licensed Professional Counselors (LPC) Board.

9. has provided to the board a Declaration of Practices and Procedures, with the content being subject to board review and approval.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Licensed Professional Counselors Board of Examiners, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), LR 22:102 (February 1996), LR 24:1294 (July 1998).

**§705. Supervision Experience**

A. ...

1. ...

2. Pursuant to R.S. 37:1107(A), an applicant for licensure must document a minimum of 3,000 hours of

post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board, provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits. Only those applicants already receiving board-approved supervision prior to June 30, 1998 are exempt from the aforementioned time allowance.

A.2.a. - D.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), amended LR 21:466 (May 1995), LR 22:102 (February 1996), LR 24:1294 (July 1998).

**Chapter 8. Renewal of License**

**§801. Renewal**

A licensed professional counselor shall renew his license every two years in the month of June by meeting the requirement that 25 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee. The licensee should submit a declaration statement only if there has been a change in area of expertise, with the content being subject to board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in areas of expertise noted in the declaration statement. The chairman shall issue a document renewing the license for a term of two years. The license of any mental health counselor who fails to have this license renewed biannually during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed within a period of two years after the expired renewal date upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement. Application for renewal after two years from the date of expiration will not be considered for renewal; the individual must apply under the current licensure guidelines.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:271 (March 1992), amended LR 22:103 (February 1996), LR 24:1294 (July 1998).

Gary S. Grand  
Chairman

9807#073

## RULE

### Louisiana State University Medical Center Office of the Chancellor

#### Tumor Registry (LAC 48:V.8501-8513)

Under the authority of R.S. 40:1299.80 et seq. and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. as amended, the Chancellor of the Louisiana State University Agricultural and Mechanical College, Louisiana State University Medical School amends a rule to clarify the cancer-reporting responsibilities of medical care professionals and institutions; provide for intervention in cases of noncompliance; reinforce the confidentiality requirements to protect participants from civil liability; authorize the exchange of cancer incidence data with other states; and provide for related matters by supplanting LAC 48:V.Chapter 85 in its entirety with the following.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part V. Preventive Health Services

#### Subpart 31. Tumor Registry

#### Chapter 85. Statewide Tumor Registry Program

##### §8501. Purpose

Louisiana R.S. 40:1299.80 et seq. established a “statewide registry program for reporting cancer cases for the purpose of gathering statistical data to aid in the assessment of the presence, extent, possible causes of specific cancers, and other related aspects of cancer . . . in Louisiana.” In carrying out this mandate, the Louisiana Tumor Registry collaborates with the National Cancer Institute, the Centers for Disease Control and Prevention, and other medical research institutions and public health agencies. The importance of cancer registration was reinforced by the passage of federal legislation in 1992 (Public Law 102-515) establishing the National Program of Cancer Registries, in which Louisiana participates. Acts Number 1197 of the 1995 Louisiana Legislative Session clarified the cancer-reporting responsibilities of medical care professionals and institutions, provided for intervention in cases of noncompliance, reinforced the confidentiality requirements to protect participants from civil liability, authorized the exchange of cancer incidence data with other states, and provided for related matters. Act Number 1138 of the 1995 Session transferred the Louisiana Tumor Registry Program and the Louisiana Cancer and Lung Trust Fund Board to the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, to be administered by the LSU Medical School at New Orleans. “Louisiana State University Medical Center” shall replace “office of public health” or “office” in R.S. 40:1299.80 et seq. and in Act 1197 of the 1995 Regular Session. “Chancellor of the LSU Medical Center or the chancellor’s designated representative” shall replace “Secretary” in Act Number 1197.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State

University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998).

##### §8503. Definitions

*Confidential Data*—shall include any information that pertains to an individual case, as distinguished from group, aggregate, or tabular data. Confidential, case-specific data include, but are not limited to, primary or potential human identifiers.

*Director*—the director of the Louisiana Tumor Registry, who is appointed by the Chancellor of LSU Medical Center.

*Follow-Up Information*—information that is used to determine survival rates for various types of cancer. The information consists of the patient name, case number, vital status, and date of last contact with the patient.

*Health Care Provider*—every licensed health care facility and licensed health care provider, as defined in R.S. 40:1299.41(A)(1), in the state of Louisiana.

*Louisiana Tumor Registry (LTR)*—the program in the LSU Medical Center (LSUMC) that administers a population-based statewide cancer registry.

*Regional Tumor Registry*—an organization that has contracted with the *Louisiana Tumor Registry* to provide in its region such services as: screening medical records and abstracting data on all cancer cases; compiling and editing data; performing quality assurance programs; training personnel from hospital and other facilities; and furnishing abstracts of acceptable quality to the LTR from all medical facilities and health care providers in the parishes assigned to that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998).

##### §8505. Participation in the Program

*Responsibility for Reporting.* All hospitals, pathology laboratories, radiation centers, physicians, dermatology offices, nursing homes, and other licensed health care facilities and providers, as defined in R.S. 40:1299.41(A)(1), shall participate in the cancer registry program defined by R.S. 40:1299:80 et seq. Each patient who receives screening, diagnostic or therapeutic services for cancer shall be registered, and the LTR shall have physical access to all records that would identify cases of cancer or would describe a patient’s disease, treatment, or medical status. Patients admitted to a Louisiana hospital shall be registered through the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998).

##### §8507. Cancer Case Reporting

A. Reportable Cancer Cases. Any newly diagnosed in situ or invasive neoplasm is considered a reportable diagnosis (these bear a behavior code of “2” or “3” in the *International*

*Classification of Diseases for Oncology*, 2nd edition, published in 1992 by the World Health Organization). The two exceptions are:

1. carcinoma in situ of the cervix; and
2. basal cell and squamous cell carcinomas of the skin, unless they occur on the lips or on the genital organs. If a patient subsequently develops a new primary cancer, it shall be reported separately.

B. Format for Reporting. The format for reporting, the required codes, and the standards for completeness and quality are described in the *Standards for Cancer Registries*, compiled by the North American Association of Central Cancer Registries. Text is required for specified variables and shall be adequate to permit quality assurance evaluation of coding decisions. Abstracts shall be sent to the designated regional office, the address for which can be obtained from the Louisiana Tumor Registry.

C. Variables to be Reported

1. The standardized report of cancer shall include the following information as a minimum. Those followed by an asterisk must include enough text to permit quality assurance evaluation of coding decisions.

Report Source	
a.	reporting facility/physician*
b.	date of admission/first contact
c.	hospital medical record number
d.	hospital accession number
e.	class of case: analytic/non-analytic
f.	type of reporting source
g.	institutions referred to and from
h.	physicians: managing, surgeon, oncologist, follow-up, referring, other

Patient Information	
i.	patient's name: first, last, middle, maiden, alias, prefix and/or suffix
j.	date and place of birth
k.	age at diagnosis
l.	sex
m.	race
n.	address at diagnosis: number and street, city, parish, state, zip code
o.	telephone number
p.	Social Security number
q.	marital status
r.	religion
s.	Spanish/Hispanic origin

t.	usual occupation *
u.	usual industry *
v.	tobacco history
w.	family and patient history of cancer

Description of Disease	
x.	date of first diagnosis
y.	primary site*
z.	diagnostic procedures:* physical exam, x-rays, scans, scopes, lab tests, operative, pathology
aa.	type of diagnostic confirmation *
bb.	laterality
cc.	histology *
dd.	neoplasm behavior
ee.	grade/differentiation
ff.	tumor size
gg.	nodes examined
hh.	tumor extension and lymph node involvement
ii.	sites of distant metastasis
jj.	extent of disease/summary stage *
kk.	coding systems for site, morphology and treatment
ll.	sequence number at the facility
mm.	tumor markers (prostate, breast, testis)

Treatment	
nn.	dates of first course of treatment
oo.	descriptions and summaries of treatments:* surgery, chemotherapy, hormone, biological response modification, radiation (including to central nervous system), other
pp.	reason for no treatment, if applicable
qq.	surgery/radiation sequence
rr.	reconstructive surgery, immediate (breast only)

Survival	
ss.	date of inpatient discharge
tt.	name and address of parent/spouse/follow-up contact
uu.	date of last contact
vv.	place (state), date and cause of death

ww.	death certificate file number
xx.	ICD revision

Administration	
yy.	abstractor's initials
zz.	date case put in file to transmit to LTR
aaa.	remarks *

\* must include enough text to permit quality assurance evaluation of coding decisions.

2. The report of cancer shall include the listed demographic, diagnostic, and treatment information as a minimum as required by U.S. Public Law 102-515. Standard variables and codes established by the North American Association of Central Cancer Registries (NAACCR) shall be used. Additional variables may be added to the list as they are needed to study Louisiana-specific cancer questions or as they are recommended by the NAACCR. Louisiana regional offices may require that other data, including follow-up information, be abstracted.

D. Deadline for Reporting. Each cancer case shall be reported to the designated regional registry within six months of diagnosis.

E. Failure to Report. If a facility fails to provide the required information in the format specified by the Louisiana Tumor Registry or if the data are of unacceptable quality, personnel from the Louisiana Tumor Registry may enter the facility to screen and abstract the information. In these cases, the facility shall reimburse the Louisiana Tumor Registry or its contractor the actual cost of screening, abstracting, coding and editing, which is \$35 per case.

F. Quality Assurance. Staff members from the central registry and the regional registries shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:

1. rescreening medical records, including those in hospital pathology and radiology departments and in freestanding facilities, to ensure that all cancer cases have been accessioned; and

2. reabstracting the records of cancer patients to ensure that all data have been transcribed and coded correctly. Reporting facilities shall assist LTR staff by compiling a list of cancer patients, if computer facilities permit, and obtaining the necessary medical records for its departments and patients. The LTR and the regional registries shall also offer tumor registrar training for hospital personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998).

### §8509. Confidentiality

A. Revised Statutes 40:1299.85 and 1299.87 of Act 1995, Number 1197, strengthen and enforce previous legislative provisions to ensure the confidentiality of cancer patients,

health care providers, and health care facilities. These laws protect licensed health care providers and facilities that participate in the cancer registration program from liability, and they also specify confidentiality requirements for the expanded activities of the Louisiana Tumor Registry.

B. LTR Responsibilities. The Chancellor shall take strict measures to ensure that all case-specific information is treated as confidential and privileged. All employees or consultants, including auditors, of the Louisiana Tumor Registry and of its regional offices shall sign an "Agreement to Maintain Confidentiality of Data," and these agreements shall be kept on file. An employee who discloses confidential information through gross negligence or willful misconduct is subject to penalty under the law.

C. Protection of Report Sources. Health care providers who disclose cancer morbidity or mortality information to the Louisiana Tumor Registry or its employees in conformity with the law shall not be subject to actions for damages. Their licenses shall not be denied, suspended, or revoked for good-faith release of confidential information to the Louisiana Tumor Registry.

D. Protection of Case-Specific Data from Obtained by Special Morbidity and Mortality Studies and Other Research Studies

1. Louisiana R.S. 40:3.1(A) through (H) and R.S. 40:1299.87(F) state that all confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Office of Public Health shall be used solely for statistical, scientific and medical research purposes. This applies also to data procured by any other person, agency, or organization, including public or private colleges and universities acting jointly with the Office of Public Health in connection with special cancer studies, and health research investigations. No case-specific data shall be available for subpoena, nor shall they be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

2. No part of the confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that procured by employees or agents of the Louisiana Tumor Registry or persons, agencies or organizations, including public or private colleges and universities acting in collaboration with the Louisiana Tumor Registry in special cancer studies, shall be available for subpoena. These data shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1297 (July 1998).

**§8511. Release of Information**

A. Reports published by the Louisiana Tumor Registry shall include aggregate, not case-specific, data. Information that would potentially identify a health care provider shall not be published.

B. Follow-up Information. Follow-up information about a patient shall be provided, if requested, to the physician or medical facility that originally reported the case.

C. Collaboration with Federal and State Public Health Agencies. The LTR is authorized to collaborate with the National Cancer Institute and the Centers for Disease Control and Prevention in providing cancer incidence statistics and participating in cancer studies. In addition, it shall work closely with the Louisiana Office of Public Health (LOPH) in investigating cancer clusters and other cancer-related issues and in evaluating programs. Because the LTR data are an integral part of the LOPH cancer prevention and control programs, the use of Registry data by public health officials shall be considered an in-house activity and shall be processed expeditiously. Each LOPH request for case-specific data for research or public health purposes will require approval by the LOPH Institutional Review Board. In addition, the LOPH must comply with LTR confidentiality standards.

D. Requests for Case-Specific LTR Incidence Data. These data may be released to qualified persons or organizations for the purposes of cancer prevention, control, and research. Such data do not include confidential information collected for special morbidity and mortality studies or other research projects. Studies utilizing registry cancer data may investigate the causes of cancer, evaluate patient care and preventive services, or carry out any other clinical, epidemiological, or other cancer research, including the role of biomarkers in morbidity and survival.

1. Requests from outside researchers for case-specific LTR incidence data, including data linkages, shall be reviewed and approved by a research committee following the established policies of the Louisiana Tumor Registry. These include the following:

- a. approval from the LSUMC Institutional Review Board and the researchers' Institutional Review Board;
- b. signature of the LTR confidentiality form, agreeing to adhere to the LTR confidentiality provisions;
- c. the written agreement to use data solely for the specified topic;
- d. the signature of a hold-harmless agreement with LSU Medical Center;
- e. the participation of the Director or designated staff in manuscript review to ensure compliance with confidentiality measures; and
- f. the destruction of data once the research is completed.

2. Data linkage with LTR files shall be performed only by the LTR staff, and the Registry may require the removal of identifiers to protect the identity of cases.

3. Researchers shall provide permission from the patient or his next-of-kin when requesting case-specific health information that includes primary identifiers; without such, consent shall be obtained from the reporting facility or health care provider. In addition, physician consent may be a

prerequisite for contacting patients or their next-of-kin in some reporting facilities. A detailed description of the procedures for requesting Registry data can be obtained from the Louisiana Tumor Registry, at the address below. The Registry may charge a fee for providing data, and this fee shall be limited to actual costs incurred.

E. Requests for Aggregate Data

1. Data required by the LOPH for responding to concerns expressed about threats to the public health shall receive priority in determining the order of processing requests. Other requests shall be processed in the order of their receipt. The Registry shall respond to public requests as quickly as possible, subject to staffing constraints, provided that these requests meet certain requirements in conformity with R.S. 40:3.1(A) and (F) and R.S. 40:1299.87(F) et seq. Requesters may be asked to reimburse the LTR for actual costs for compiling data.

2. Requests for aggregate information shall be made in writing to the address listed below. The letter shall include a return address; a clear description of the requested data, including geographical area, year of diagnosis, and anatomical sites; and a legible version of the requester's name. The LTR staff shall provide aggregate figures, provided that complete and accurate data are available for the specified time period. If complete edited data are not available for the period requested, the LTR staff shall substitute information from the most recent years that meet its completeness and accuracy standards. The privacy of individuals shall be protected by suppressing small numbers in given geographic areas.

F. Annual Report. A detailed statistical report shall be prepared for the LSU Medical Center, the Louisiana Cancer and Lung Trust Fund Board, and each participating hospital and registry at the completion of each year's data collection cycle.

Phone and Address of the Louisiana Tumor Registry
Box P5-1, Pathology Department LSU Medical Center 1901 Perdido St. New Orleans, LA 70112 Phone: 504/568-4716 Fax: 504/599-1278

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998).

**§8513. Interstate Exchange of Data**

A. Because cancer patients may be diagnosed or receive treatment in another state, the Louisiana Tumor Registry is authorized to sign agreements with other states to acquire cancer data concerning Louisiana residents and, in return, to provide those states with data relating to their residents. Each signatory state shall agree, in writing, to keep all case-specific data confidential and privileged, to abide by all Louisiana confidentiality regulations, and to sign a hold-harmless agreement with the LSU Medical Center.

B. Data shall be exchanged only by the state central registries.

C. Cancer information on residents of other states, if the case was originally recorded in Louisiana and forwarded to the other state, shall not be included in special studies unless the researchers have obtained consent from the Louisiana Tumor Registry. These researchers shall comply with Louisiana confidentiality procedures.

D. The following Interstate Agreement form shall be executed by a representative of the state central registry who is authorized to legally obligate the registry.

**LOUISIANA TUMOR REGISTRY  
CANCER PATIENT INFORMATION  
EXCHANGE AGREEMENT  
with**

The Louisiana Tumor Registry, in cooperation with the Louisiana Office of Public Health, hereinafter referred to as "LTR," and \_\_\_\_\_, hereinafter referred to as "Other," agree as follows:

(1) Services:

By signing this agreement, the parties state their intention to exchange cancer incidence data concerning cancer patients who are residents of the other's state in order to provide more complete case enumeration among their residents. This exchange is predicated on the mutual assurance that the identifying information on the patient that is exchanged is protected by law from release and shall be kept strictly confidential. This exchange does not pertain to any data collected as part of special morbidity or mortality studies or other research projects.

In addition, the parties agree:

- a) to provide the information following a mutually agreeable format and time table. It is expressly agreed that the identity of the patient and facility, along with any other pertinent identifying information routinely collected by both LTR and Other, will be provided.
- b) to restrict carefully the use of information. The information may be used only for registry administration and for aggregated statistical tabulations and analyses.
- c) to prohibit cancer incidence data or identifiable information on a health care provider that was supplied under the terms of the agreement from being released to anyone not employed in the direct operation of the recipient registry. Employees may include those involved in the processing, administration, quality control review, and statistical surveillance of cancer incidence data.
- d) not to contact directly any subject cancer patients or their families covered by this agreement. Any request for additional or follow-up information shall be referred back to the other party to this agreement.
- e) to terminate this agreement immediately upon the written notification of either party to terminate the agreement.

(2) Confidentiality:

The parties agree that:

- a) any and all LTR incidence data that pertain to an individual case, as distinguished from group, aggregate, or tabular data,
- b) they shall require all officers, agents, and employees to keep all such data strictly confidential, shall communicate the requirements of this section to all officers, agents, and employees, shall discipline all persons who may violate the requirements of this section, and shall notify the collecting agency in writing within forty-eight (48) hours of any violation of this section, including full details of the violation and corrective actions to be taken.
- c) all data provided under the provisions of this agreement may be used only for the purposes named in this agreement. Any other or additional use of the data may result in immediate termination of this agreement by either party.
- d) all data provided under the provisions of this agreement shall be sent by certified mail or courier service and are the sole property of the reporting state. They may not be copied or reproduced in any form or manner without prior written permission of the collecting agency.
- e) in the event that either party receives a subpoena or other court order compelling disclosure of confidential LTR data, the parties agree to notify

the registry that initially provided the data within forty-eight (48) hours of receipt of the subpoena or court order. Additionally, the parties agree that, should they receive such a subpoena, they shall take all legal steps reasonably necessary to oppose the subpoena.

- f) confidential information obtained under the terms of this agreement will not be released to parties conducting research or other activities, even if the study has met the recipient state's approval requirements. Instead, the researcher or other requester must contact the registry providing the original report for permission to use the data. Researchers using data originally abstracted in Louisiana must abide by Louisiana confidentiality procedures, a detailed description of which may be obtained from the Louisiana Tumor Registry at the address below.
  - g) they shall sign agreements to hold the state that originally provided confidential data harmless should the recipient state release them in violation of the confidentiality provisions of this document.
- (3) Data from Special Studies

As stated in subpart (1) above, this information exchange agreement does not encompass or apply to the confidential data of special morbidity or mortality studies and research investigations. These data are protected from disclosure by La. R.S. 40:3.1(A) through (H) and by R.S. 40:1299.87(F).

(4) Amendments:

This agreement shall not be amended without prior written approval of both parties to the agreement.

(5) Assignment:

The parties understand and agree that this agreement may not be sold, assigned, or transferred in any manner and that any actual or attempted sale, assignment, or transfer shall render this agreement null, void, and of no further effect.

- (6) This agreement shall be in effect from date of execution until terminated by either of the parties. This agreement may also be terminated without cause by either party at any time upon at least fifteen (15) days' written notice of termination to the other party. Termination shall be sent in writing pursuant to Section Six (6).

(7) Notices:

All notices required or desired to be made by either party to this agreement shall be sent by certified mail or courier service to the following addresses:

to LTR: Director  
Louisiana Tumor Registry  
Box P5-1, Pathology Department  
LSU Medical Center  
1901 Perdido Street  
New Orleans, LA 70112

- (8) The parties hereto agree and warrant by signing this agreement that their agency has the right to keep the information covered by this agreement confidential.

(9) Total Agreement:

The parties understand and agree that this agreement constitutes the total agreement between them and that no promises, terms, or conditions not recited herein or incorporated herein or referenced herein shall be binding upon either of the parties.

Signed:

Agency\*: \_\_\_\_\_ Agency: \_\_\_\_\_  
 By: \_\_\_\_\_ By: \_\_\_\_\_  
 Typed name: \_\_\_\_\_ Typed name: \_\_\_\_\_  
 Title: \_\_\_\_\_ Title: \_\_\_\_\_  
 Date: \_\_\_\_\_ Date: \_\_\_\_\_

\*Agency: Representative of Louisiana Tumor Registry

<b>Phone and Address of the Louisiana Tumor Registry</b>
Box P5-1, Pathology Department LSU Medical Center 1901 Perdido St. New Orleans, LA 70112 Phone: 504/568-4716 Fax: 504/599-1278

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998).

Mervin L. Trail, M.D.  
Chancellor, LSU

9807#036

## RULE

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

#### Medicaid—Cochlear Device Implantation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, establishes the following coverage and criteria for cochlear implantation for recipients 2 years of age through 20 years of age with profound bilateral sensorineural hearing loss.

#### I. Recipient Criteria

A. General Criteria for Cochlear Device Implantation. The following criteria apply to all candidates. Recipient must:

1. have a profound bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;
2. be a profoundly deaf child, age 2 years or older or be a post linguistically deafened adult through the age of 20 years;
3. receive no significant benefit from hearing aids as validated by the cochlear implant team;
4. have high motivation to be part of the hearing community as validated by the cochlear implant team;
5. have appropriate expectation;
6. have had radiologic studies that demonstrate no intracranial anomalies or malformations which would contraindicate implantation of the receiver-stimulator or the electrode array;
7. have no medical contraindications for undergoing implant surgery or post-implant rehabilitation; and
8. show that he and his family are well-motivated, possess appropriate post-implant expectations and are prepared and willing to participate in and cooperate with pre and post implant assessment and rehabilitation programs as recommended by the implant team and in conjunction with Federal Drug Administration (FDA) guidelines.

#### B. Specific Criteria

1. Children 2 Years through 9 Years. In addition to documentation that candidates meet general criteria the requestor shall provide documentation:

- a. that profound-to-total bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;
- b. that appropriate tests were administered and no significant benefit from a hearing aid was obtained in the best aided condition as measured by age-appropriate speech perception materials; and
- c. that no responses were obtained to Auditory Brainstem Response, Otoacoustic Emission testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation.

2. Children 10 Years through 17 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation:

- a. that profound-to-total bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;
- b. that appropriate tests were administered and no significant benefit from a hearing aid was obtained in the best aided condition as measured by age and language-appropriate speech perception materials;
- c. that no responses were obtained to Auditory Brainstem Evoked Response, Otacoustic Emission Testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation;
- d. the candidate has received consistent exposure to effective auditory or phonological stimulation in conjunction with oral method of education and auditory training;
- e. that candidate utilizes spoken language as his primary mode of communication through one of the following:
  - an oral/aural (re)habilitational program or a total communications educational program with significant oral/aural; and
  - f. that the individual has at least six months' experience with a hearing aid or vibrotactile device except in the case of meningitis (in which case the six-month period will be reduced to three months).

3. Adults 18 Years through 20 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation:

- a. that the candidate for implant is post linguistically deafened with severe to profound bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;
- b. that no significant benefit from a hearing aid was obtained in the best aided condition for speech/sentence recognition material;
- c. that no responses were obtained to Auditory Brainstem Response, Otoacoustic Emission testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation;

d. that the candidate has received consistent exposure to effective auditory or phonological stimulation or auditory communication;

e. that the candidate utilizes spoken language as his primary mode of communication through one of the following: an oral/aural (re)habilitation program or a total communications educational program with significant oral/aural training; and

f. that the candidate has had at least six months' experience with hearing aids or vibrotactile device except in the case of meningitis (in which case the six-month period will be reduced to three months).

4. Multi-Handicapped Children. Criteria appropriate for the child's age group are applied.

## II. Minimal Requirements for Cochlear Implant Team

The implant team shall be composed of the following members at a minimum:

- A. physician/otologist;
- B. audiologist;
- C. speech/language pathologist;
- D. psychiatrist; and
- E. educator of the deaf with experience in oral/auditory instruction.

## III. Prior Authorization

All implantations (CPT code 69930) must be prior authorized. The request to perform surgery shall come from the cochlear implant team (made up of professionals as described in II.A-E) who assessed the recipient's hearing sensitivity and determined him/her to be a potential candidate for implantation. The team's recommendation and the results of all preoperative testing (audiogram, tympanogram, acoustic reflexes, auditory brainstem response, otoacoustic emission, speech and language evaluation, social/psychological evaluation, medical evaluation, and any other pertinent testing or evaluation etc.) shall be submitted simultaneously to the Prior Authorization Unit for review.

Only one device per lifetime, per eligible recipient shall be reimbursed unless the device fails, in which case reimbursement for a second device will be considered. Reimbursement for a second surgery will also be considered if the first surgery fails or if the device is damaged beyond repair.

Ongoing speech, language and hearing therapy services for cochlear implant recipients must be prior authorized like all other rehabilitation services.

## IV. Covered Expenses

The following expenses related to the maintenance of the cochlear device will be covered if prior authorized:

- A. all costs for upgrades and repairs to the component parts of the device; and
- B. all costs for cords and batteries.

## V. Noncovered Expenses

The following expenses related to the maintenance of the cochlear device are the responsibility of either the recipient or his family or care giver(s):

- A. all costs for service contracts and/or extended warranties;

- B. all costs for insurance to protect against loss and theft.

David W. Hood  
Secretary

9807#088

## RULE

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

Mental Health Rehabilitation Program  
Enrollment and Certification Criteria

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 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 establishes enrollment and certification requirements for participation in the Mental Health Rehabilitation Program (MHR); which replaces the requirement for licensure in the appropriate category by the Department of Social Services (DSS).

Exception: The provision of psychosocial skills training, which will continue to require an adult day care license from DSS for participation in the Mental Health Rehabilitation Program. Currently enrolled providers must re-enroll and meet the revised criteria within 90 days of the effective date of the final rule.

### I. ...

### II. Provider Participation

A. Application Requirements. Currently enrolled and prospective providers of mental health rehabilitation services must apply to the Bureau of Health Services Financing or its designee for certification as a mental health rehabilitation provider. The provider must have separate Medicaid provider numbers for each region where they are enrolled to do business. They have the ultimate responsibility for the delivery of all services, including those delivered through contractual agreement(s) in these regions. The prospective provider must provide documentation that the agency meets the following requirements and assurances to be enrolled as a Medicaid provider of MHR services:

1. completed PE 50 and addendum, and a completed disclosure of ownership form;
2. line of credit from a federally-insured, licensed, lending agency for at least \$20,000 as proof of adequate finances. Nonprofit agencies which have been in existence for at least five years and have a valid audit, by a certified public accountant, of their most recent fiscal year, which verifies the viability of the agency are not required to meet this standard;

3. statement identifying the population to be served: adults with serious mental illness; children with emotional/behavior disorder; or both; staff must have been credentialed by the Office of Mental Health to provide services to each designated population group (children and/or adults);

4. proof of general liability insurance of at least \$150,000 and professional liability insurance of at least \$150,000. The certificate holder shall be the Department of Health and Hospitals;

5. identification of the agency's main offices, all offices billing with the main office's Medicaid provider number, and all regions in which the agency conducts business;

6. résumés and documentation of qualifications for the current program director, the psychiatric director and all clinical manager(s), including documentation of licensure;

7. disclosure, in writing, of any financial transaction with the agency in which a member of the governing body, administrative personnel, or his/her immediate family is involved and/or a familial relationship with any other entity receiving Medicaid funds;

8. a copy of a current adult day care license issued by Department of Social Services if providing group psychosocial skills/training for adults;

9. certifications and licenses must reflect the correct agency name and address;

10. certification by Office of Mental Health that the provider meets the criteria listed in B below.

B. Certification Requirements. Upon receipt of the application, the Bureau of Health Services Financing or its designee will conduct an onsite visit within 30 working days of receipt of a completed enrollment packet to assure that the agency meets the following enrollment guidelines:

1. Demonstrate an administrative structure to provide mental health rehabilitation services as evidenced by written policies and procedures to include:

a. the composition and responsibilities of the governing body;

b. administrative files for employment and personnel including job descriptions, an organization chart, time sheets, payroll records and hiring practices;

c. personnel records of each staff member documenting experience, education and training in accordance with MHR staffing requirements;

d. compliance with the ongoing MHR training requirements;

e. procedure for the maintenance, security, and confidentiality of residents' records;

f. consumers' rights including procedures for resolution of grievances;

g. procedures for reporting cases of abuse and neglect as defined by state and federal regulations;

h. procedures for subcontracting of services, including copies of leases, contracts and service agreements.

2. Demonstrate adequate financial resources; a system of business management and staffing; and fiscal accountability to assure maintenance of complete and accurate accounts, books and records in keeping with generally accepted accounting principles, as follows:

a. maintain a preliminary or current detailed budget for the agency;

b. maintain adequate funds to reimburse staff and provide necessary services;

c. maintain a separate business bank account;

d. submit a copy of an annual audit of the MHR agency conducted by an independent certified public accountant, in accordance with generally accepted accounting principles, within 90 days of the close of the agency's first year of business and annually thereafter.

3. Demonstrate the capacity to provide all services within the MHR program directly or through a subcontract as evidenced by:

a. identification of direct services to be provided, including a written program philosophy and agency goals;

b. identification of the role of clinical management within the agency;

c. identification of services to be provided by subcontractors;

d. identification of professional consultants, including psychologists, psychiatrists, and/or physicians, and their role within the agency;

e. maintenance of a written plan to determine the effectiveness of the MHR program including a Continuous Quality Improvement Plan and a consumer satisfaction component.

4. An agency shall be required to have regular posted business office hours and be fully operational at least eight hours a day, five days a week between 7 a.m. and 7 p.m. Services shall be available on an emergency basis 24 hours a day, seven days a week. (If an agreement is made with another entity, a signed agreement shall be on file.)

5. Outreach offices shall serve the same or part of the geographic area approved for the main office.

a. The outreach office shall retain all clinical records for its consumers. Duplicate records need not be maintained at the main office, but shall be made available to federal/state surveyors during any review upon request. The main office shall maintain a listing of all clients and the outreach office seeing the client.

b. Original personnel files are to be kept at the main office.

c. A statement of personnel policies is maintained in each outreach office for staff usage.

d. Approval for outreach offices will be issued, in writing, by the bureau or its designee for one year and will be renewed at time of recertification.

C. Failure to Meet Certification. If the agency fails to meet certification requirements, a letter identifying the problem areas will be sent to the agency. Within 60 days, the agency must request a second review to determine if all deficiencies were corrected. If the agency is unable to correct the deficiencies or does not request a second review, the agency is not allowed to request another site visit for one year after the initial request.

D. Recertification. Each year the agency must reapply to the BHSF or its designee for recertification 90 days prior to the expiration of the certification. The agency must submit all information outlined above. The agency will then be reviewed

on-site by BHSF, or its designee, to assure the agency continues to meet certification requirements. If the agency meets the requirements, a one-year certification will be issued.

E. Failure to Meet Recertification. If the agency does not meet the standards, the agency will be notified of all deficiencies, in writing, within 15 working days following the on-site review. The agency shall submit a corrective action plan which shall be received by the bureau or its designee within 10 days of the date of the letter. A follow-up survey will be conducted (within 60 days of citation date) whenever necessary to assure correction of deficiencies. When applicable, deficiencies may be cleared at the exit interview and/or by mail.

#### F. Notification of Changes

1. The bureau or its designee shall be notified, in writing, of any of the following changes within five working days of the change:

- a. location;
- b. address;
- c. telephone number;
- d. hours of operation/24 hour contact procedure;
- e. ownership (controlling): 5 percent or more of controlling interest;
- f. administrator;
- g. program director, clinical manager, and psychiatric director;
- h. change in address or phone number of any out reach office;
- i. any subcontracting change that is in addition to; or deletion of subcontractors.

2. Any request for change in location of geographic area served must include written approval from BHSF, or its designee, for the proposed area.

3. Change of Ownership. If the agency expects to undergo a change of ownership, a representative of the buyer must obtain a packet entitled "Change of Ownership (CHOW) Packet" from the bureau and complete the following information before purchasing the agency:

- a. PE-50;
- b. a disclosure of ownership form;
- c. a certified copy of the bill of sale and articles of incorporation which must be submitted to the bureau within five working days after the act of sale;
- d. the new name and address of the agency;
- e. administrative personnel.

4. Closure of MHR Agency. If at any time the agency is no longer operational, the certification shall be deemed invalid and shall be returned to the bureau within five working days. The agency owner is responsible for notifying the bureau of the location of all records. To be operational, an agency must:

- a. have at least five active consumers at the time of any survey other than an initial survey;
- b. be able to accept referrals at any time during regular business hours;
- c. have adequate staff to meet the needs of current consumers;

d. have required designated staff on the premises at all times during business hours;

e. be immediately available by telecommunications 24 hours per day.

#### G. Suspension and/or Termination of Certification

1. The agency will be suspended from certification and enrollment for any of the following reasons:

a. if more than 10 percent of consumers file complaints regarding service provisions in a one-year period and the complaints have been validated by BHSF or its designee;

b. continued noncompliance with any certification requirements (three surveys within one-year period);

c. failure to provide the range of services specified in the service agreement;

d. failure to uphold patient rights when violations may or could result in harm or injury;

e. failure of the agency to protect consumers from harmful actions of agency employees, including, but not limited to, health and safety, coercion, threat, intimidation, solicitation and harassment;

f. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

g. failure to maintain adequate qualified staff to provide necessary services;

h. failure of subcontractors to meet all required standards;

i. failure to allow entry to MHR agency or subcontracted agency; or access to any requested records during any survey;

j. failure to remain fully operational at any time for any reason other than a disaster;

k. failure of an agency to correct violations within 60 days after being cited, or at the time of the follow-up survey, whichever occurs first;

l. agency staff or owner knowingly, or with reason to know, make a false statement of a material fact in the:

- i. application for enrollment;
- ii. data forms;
- iii. clinical record;
- iv. matter under investigation by the department;
- m. agency uses false, fraudulent or misleading advertising;
- n. failure to disclose a conviction of a criminal offense by persons who have ownership or control interest in the provider, or is an agent or managing employee of the provider as described in 42 CFR 455.106; or

o. failure to comply with all reporting requirements in a timely manner.

2. The suspensive action will take effect immediately upon written notification. Suspended agencies will not be allowed to admit new clients until final decision when all appeal rights have been exhausted.

3. If an agency's suspension is upheld in an appeal, the agency and its owners (under any agency name) will not be allowed to participate for two years from the date of the suspension.

**III. - VIII. ...**

**X. Notice and Appeal Procedure**

An applicant or certificant aggrieved by any action taken by the department pursuant to Paragraph II(C), II(E), or II(G), may appeal such action suspensively by submitting a written request for an appeal to the secretary of the department. The request for appeal must be received by the secretary within 30 days after the receipt of the written notification of the department's action and must specify, in detail, the reasons for the appeal and the reasons why the applicant or certificant feels aggrieved by the department's action. The appeal and the hearing thereof shall be conducted in accordance with the Medicaid provider appeal process.

David W. Hood  
Secretary

9807#052

**RULE**

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

**Qualified Individuals—Medicare Part B Buy-In**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4732 of the Balanced Budget Act of 1997 governing the payment of Medicare Part B premiums for Qualifying Individuals. These provisions are effective for premiums payable beginning January 1, 1998 and ending with December 31, 2002. A capped allocation is available for each of the five years beginning January 1998, for payment of premiums for the following two mandatory groups:

1) Qualified Individuals-1 (QI-1s): individuals who are entitled to Part A of Medicare, with income above 120 percent, but less than 135 percent of the federal poverty level. In addition their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to full payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

2) Qualified Individuals-2 (QI-2s): individuals who are entitled to Part A of Medicare, with income at least 135 percent, but less than 175 percent of the federal poverty level. In addition, their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to partial payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

Once an individual is selected to receive assistance in a calendar month, he is entitled to receive assistance for the remainder of the calendar year, as long as the individual continues to meet QI criteria. However, the fact that an individual receives assistance at any time during the year does not necessarily entitle the individual to continued assistance for any succeeding year. For calendar years after 1998, the state shall give preference to individuals who were QIs, QMBs, SLMBs, or Qualified Disabled and Working Individuals (QDWIs) in the last month of the previous year and who continue to be or become QIs. Selection of QIs shall be on a first-come, first-serve basis (in the order in which they apply).

David W. Hood  
Secretary

9807#072

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
Medical Disclosure Panel**

**Informed Consent—Oral Surgery; Gastric Lap Band for Obesity; Gastric Bypass with or without Liver Biopsy for Obesity; Thoracentesis; Cancer Chemotherapy  
(LAC 48:I.Chapter 23)**

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1992 and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Medical Disclosure Panel, is amending rules which require which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the consent form to be signed by the patient and physician before undergoing any such treatment or procedure.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Chapter 23. Informed Consent**

**§2317. Oral Surgery**

A.1. - 10. ...

11. Possible injury to TMJ (Temporomandibular Joint Dysfunction or jaw joint).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 23:75 (January 1997), LR 24:1304 (July 1998).

**§2451. Gastric Lap Band for Obesity**

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

**A. Risks of Surgery**

1. Damage to surrounding organs:

- a. bowel, pancreas, liver, requiring more surgery;
- b. blood vessels and/or spleen with bleeding requiring transfusion;

- c. with removal of spleen.

**B. Risks of Recovery Period**

1. Abdominal wound problems:

- a. infection, failure to heal, severe scarring, hernia.

2. Blood clots in the legs and/or pulmonary embolism (clots moving to lungs).

3. Pneumonia or other breathing problems requiring prolonged need for ventilator (breathing machine).

**C. Need for additional surgery due to:**

1. gallstones with possible inflammation of the liver and/or pancreas;

2. stomach or intestinal blockage from trapped food or scarring;

3. abdominal infection with abscess;

4. bleeding.

**D. Other long term risks:**

1. extreme weight loss;

2. failure to lose weight;

3. large folds of loose skin;

4. depression as a result of weight loss, required diet change, or complications of surgery;

5. failure of the procedure;

6. vitamin and/or mineral deficiency, possibly requiring lifelong injections.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E) et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 24:1304 (July 1998).

**§2453. Gastric Bypass with or without Liver Biopsy for Obesity**

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

**A. Risks of Surgery**

1. Damage to surrounding organs:

- a. bowel, pancreas, liver, requiring more surgery;

- b. blood vessels and/or spleen with bleeding requiring transfusion;

- c. with removal of spleen.

**B. Risks of Recovery Period**

1. Abdominal wound problems:

- a. infection, failure to heal, severe scarring, hernia.

2. Blood clots in the legs and/or pulmonary embolism (clots moving to lungs).

3. Pneumonia or other breathing problems requiring prolonged need for ventilator (breathing machine).

**C. Need for additional surgery due to:**

1. gallstones with possible inflammation of the liver and/or pancreas;

2. stomach or intestinal blockage from trapped food or scarring;

3. abdominal infection with abscess;

4. bleeding.

**D. Other long term risks:**

1. extreme weight loss;

2. failure to lose weight;

3. large folds of loose skin;

4. depression as a result of weight loss, required diet change, or complications of surgery;

5. failure of the procedure;

6. excessive flatulence (passing bowel gas);

7. severe, persistent diarrhea;

8. vitamin and/or mineral deficiency, possibly requiring lifelong injections.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E) et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 24:1305 (July 1998).

**§2455. Thoracentesis (insertion of needle or tube for drainage of chest cavity fluid)**

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

**A. Bleeding.**

**B. Pneumothorax (lung collapse).**

**C. Infection.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E) et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 24:1305 (July 1998).

**§2457. Cancer Chemotherapy (treatment of cancer using anti-cancer medications)**

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

**A. Hair loss.**

**B. Damage to blood forming organ (bone marrow) which may result in bleeding, infection, anemia, and possible need for transfusion.**

**C. Damage to brain, heart, kidneys, liver, lungs, nervous system, and skin.**

**D. Serious allergic reaction including shock.**

**E. Sterility.**

**F. Nausea and/or vomiting.**

**G. Constipation or diarrhea.**

**H. Sores on lips and/or ulcers in the lips, mouth, throat, stomach, rectum.**

**I. Loss of lining of intestinal tract from mouth to anus.**

**J. Secondary cancer (cancers in the future caused by chemotherapy).**

**K. Local damage at injection site.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1299.40(E) et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 24:1305 (July 1998).

**§2459. Intravenous Conscious Sedation**

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for the particular procedure.

The risks for Intravenous Conscious Sedation will be covered by 4, (c), as stated in the main consent form [death, brain damage, disfiguring scars, quadriplegia (paralysis for neck down), paraplegia (paralysis from waist down), the loss or loss of function of any organ or limb, infection, bleeding, and pain].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 24:1305 (July 1998).

David W. Hood  
Secretary

9807#057

**RULE**

**Department of Natural Resources  
Office of Conservation**

Drug Testing (LAC 43:XIII.3103, 3107, and 3109)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation amends the drug testing regulations.

**Title 43**

**NATURAL RESOURCES**

**Part XIII. Office of Conservation—Pipeline Safety**

**Subpart 1. General Provisions**

**Chapter 31. Drug Testing**

**§3103. Definitions**

\* \* \*

*Administrator*—the administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

\* \* \*

*State Agency*—an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998).

**§3107. Anti-Drug Plan**

\* \* \*

B. The administrator or the state agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator’s plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998).

**Chapter 33. Alcohol Misuse Prevention Program**

**§3309. Definitions**

As used in this Chapter:

\* \* \*

*State Agency*—an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:829 (August 1995), amended LR 24:1306 (July 1998).

Philip N. Asproditos  
Commissioner

9807#035

**RULE**

**Department of Natural Resources  
Office of Conservation**

Natural Gas Pipeline Safety  
(LAC 43:XIII.Chapters 1-29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the gas safety regulations.

**Title 43**

**NATURAL RESOURCES**

**Part XIII. Office of Conservation—Pipeline Safety**

**Subpart 1. General Provisions**

**Chapter 1. General**

**§105. Incorporation by Reference**

A. Any documents or portions thereof incorporated by reference in this Part are included in this Part as though set out in full. When only a portion of a document is referenced, the remainder is not incorporated in this Part.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1306 (July 1998).

**§125. Definitions**

\* \* \*

*Petroleum Gas*—propane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 1,434 kPa (208 psig) at 38EC (100EF).

\* \* \*

*Transmission Line*—a pipeline, other than a gathering line, that:

1. transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center;

2. operates at a hoop stress of 20 percent or more of SMYS; or

3. transports gas within a storage field. A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (1994), LR 21:821 (August 1995), LR 24:1306 (July 1998).

### **Chapter 3. Reporting of Incidents, Safety-Related Conditions, and Annual Reports**

#### **§317. Report Forms**

Copies of the prescribed report forms are available without charge upon request from the address given in §307. Additional copies in this prescribed format may be reproduced and used if in the same size and kind of paper. In addition, the information required by these forms may be submitted by any other means that is acceptable to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 20:442 (April 1994), LR 24:1307 (July 1998).

#### **§323. Filing Safety-Related Condition Reports**

A. Each report of a safety-related condition under §321.A must be filed concurrently and (received by the commissioner and associate administrator, OPS) in writing within five working days (not including Saturday, Sunday, state or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (504) 342-5529 and (202) 366-7128.

B. ...

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:1307 (July 1998).

### **Chapter 5. Class Locations**

#### **§501. Class Locations**

A. This Section classifies pipeline locations for purposes of this Part. The following criteria apply to classifications under this Section.

1. A *class location unit* is an onshore area that extends 220 yards on either side of the centerline of any continuous one-mile length of pipeline.

2. Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

B. Except as provided in Subsection C of this Section, pipeline locations are classified as follows.

1. A Class 1 location is:

a. an offshore area; or

b. any class location unit that has 10 or fewer buildings intended for human occupancy.

2. A Class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy.

3. A Class 3 location is:

a. any class location unit that has 46 or more buildings intended for human occupancy; or

b. an area where the pipeline lies within 100 yards of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least five days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

4. A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

C. The length of Class locations 2, 3, and 4 may be adjusted as follows.

1. A Class 4 location ends 220 yards from the nearest building with four or more stories above ground.

2. When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards from the nearest building in the cluster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998).

#### **§503. Gathering Lines and Petroleum Gas Systems**

A. ...

B. Petroleum Gas Systems

1. each plant that supplies petroleum gas by pipeline to a natural gas distribution system must meet the requirements of this Part and ANSI/NFPA 58 and 59.

2. each pipeline system subject to this Part that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this Part and of ANSI/NFPA 58 and 59.

3. in the event of a conflict between this Part and ANSI/NFPA 58 and 59, ANSI/NFPA 58 and 59 prevail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:1307 (July 1998).

#### **§509. Customer Notification**

A. This Section applies to each operator of a service line who does not maintain the customer's buried piping up to entry of the first building downstream, or, if the customer's buried piping does not enter a building, up to the principal gas utilization equipment or the first fence (or wall) that surrounds that equipment. For the purpose of this Section, *customer's buried piping* does not include branch lines that serve yard lanterns, pool heaters, or other types of secondary equipment. Also, *maintain* means monitor for corrosion according to §2117 if the customer's buried piping is metallic, survey for

leaks according to §2923, and if an unsafe condition is found, shut off the flow of gas, advise the customer of the need to repair the unsafe condition, or repair the unsafe condition.

B. Each operator shall notify each customer once in writing of the following information:

1. the operator does not maintain the customer's buried piping.

2. if the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage.

3. buried gas piping should be:

a. periodically inspected for leaks;

b. periodically inspected for corrosion if the piping is metallic; and

c. repaired if any unsafe condition is discovered.

4. When excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand.

5. The operator (if applicable), plumbers, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping.

C. Each operator shall notify each customer not later than August 14, 1996 or 90 days after the customer first receives gas at a particular location, whichever is later. However, operators of master meter systems may continuously post a general notice in a prominent location frequented by customers.

D. Each operator must make the following records available for inspection by the administrator or a state agency participating under 49 U.S.C. 60105 or 60106:

1. a copy of the notice currently in use; and

2. evidence that notices have been sent to customers within the previous three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:1307 (July 1998).

## Chapter 7. Qualification of Pipe

### §713. Marking of Materials

A. Except as provided in §713.D, each valve, fitting, length of pipe, and other component must be marked:

1. as prescribed in the specification or standard to which it was manufactured, except that thermoplastic fittings must be marked in accordance with ASTM D 2513; or

2. ...

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:1308 (July 1998).

## Chapter 9. Pipe Design

### §905. Design Formula for Steel Pipe

A. - C.2.a.i. ...

ii. the lowest yield strength determined by the tensile tests,

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998).

### §917. Design of Plastic Pipe

Subject to the limitations of §919, the design pressure for plastic pipe is determined in accordance with either of the following formulas:

$$P = 2S \frac{t}{(D \& t)} \times 0.32$$

$$P = \frac{2S}{(SDR \& 1)} \times 0.32$$

where:

P = Design pressure, gauge, kPa (psig).

S = For thermoplastic pipe, the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 23EC (73EF), 38EC (100EF), 49EC (120EF), or 60EC (140EF); for reinforced thermosetting plastic pipe, 75,842 kPa (11,000 psi).

t = Specified wall thickness, mm (in.).

D = Specified outside diameter, mm (in.).

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998).

### §919. Design Limitations for Plastic Pipe

A. - A.2. ...

B. Plastic pipe may not be used where operating temperatures of the pipe will be:

1. below -29EC (-20EF), or -40EC (-40EF) if all pipe and pipeline components whose operating temperature will be below -29EC (-20EF) have a temperature rating by the manufacturer consistent with that operating temperature; or

2. above the following applicable temperatures:

a. for thermoplastic pipe, the temperature at which the long-term hydrostatic strength used in the design formula under §917 is determined. However, if the pipe was manufactured before May 18, 1978 and its long-term hydrostatic strength was determined at 23EC (73EF), it may be used at temperatures up to 38EC (100EF).

b. for reinforced thermosetting plastic pipe, 66EC (150EF).

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998).

## Chapter 11. Pipeline Design Requirements

### §1141. Transmission Line Valves

A. Each transmission line, other than offshore segments, must have sectionalizing block valves spaced as follows,

unless in a particular case the administrator finds that alternative spacing would provide an equivalent level of safety:

1. - 4. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998).

#### **§1151. Vaults: Drainage and Waterproofing**

A. - B. ...

C. Electrical equipment in vaults must conform to the applicable requirements of Class I, Group D, of the National Electrical Code, ANSI/NFPA 70.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

#### **§1165. Instrument, Control, and Sampling Pipe and Components**

A. ...

B. Materials and Design. All materials employed for pipe and components must be designed to meet the particular conditions of service and the following:

1. ...

2. except for takeoff lines that can be isolated from sources of pressure by other valving, a shutoff valve must be installed in each takeoff line as near as practicable to the point of takeoff. Blowdown valves must be installed where necessary.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998).

### **Chapter 13. Welding Requirements**

#### **§1305. Qualification of Welders**

A. ...

B. A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS by performing an acceptable test weld, for the process to be used, under the test set forth in Section I of Appendix C of this Part. Each welder who is to make a welded service line connection to a main must first perform an acceptable test weld under Section II of Appendix C of this Part as a requirement of the qualifying test.

1. - 2.b. Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

#### **§1307. Limitations on Welders**

A. - B. ...

C. A welder qualified under §1305.A:

1. may not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless

within the preceding six calendar months the welder has had one weld tested and found acceptable under Section 3 or 6 of API Standard 1104, except that a welder qualified under an earlier edition previously listed in Appendix A of this Part may weld but may not requalify under that earlier edition; and

2. may not weld on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS unless the welder is tested in accordance with Subsection C.1 of this Section or requalifies under Subsection D.1 or D.2 of this Section.

D. A welder qualified under §1305.B may not weld unless:

1. within the preceding 15 calendar months, but at least once each calendar year, the welder has requalified under §1305.B; or

2. within the preceding 7½ calendar months, but at least twice each calendar year, the welder has had:

a. a production weld cut out, tested, and found acceptable in accordance with the qualifying test; or

b. for welders who work only on service lines 2 inches or smaller in diameter, two sample welds tested and found acceptable in accordance with the test in Section III of Appendix C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

#### **§1315. Inspection and Test of Welds**

A. - B.2. ...

C. The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 6 of API Standard 1104. However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if the Appendix to API Standard 1104 applies to the weld, the acceptability of the weld may be further determined under that Appendix.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

#### **§1317. Nondestructive Testing**

A. - D.3. ...

4. at pipeline tie-ins, including tie-ins of replacement sections, 100 percent.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998).

### **Chapter 15. Pipe Joining Requirements**

#### **§1509. Plastic Pipe**

A. - C.2. ...

3. an electrofusion joint must be joined utilizing the equipment and techniques of the fittings' manufacturer or equipment and techniques shown, by testing joints to the requirements of §1511.A.1.c, to be at least equivalent to those of the fittings' manufacturer.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998).

#### **§1511. Plastic Pipe; Qualifying Joining Procedures**

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

b. in the case of thermosetting plastic pipe, paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517; or

c. in the case of electrofusion fittings for polyethylene pipe and tubing, paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), paragraph 9.2 (Sustained Pressure Test), paragraph 9.3 (Tensile Strength Test), or paragraph 9.4 (Joint Integrity Tests) or ASTM Designation F1055;

2. - 3. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998).

### **Chapter 17. Transmission Line Construction**

#### **§1717. Protection from Hazards**

A. The operator must take all practicable steps to protect each transmission line or main from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, the operator must take all practicable steps to protect offshore pipelines from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998).

#### **§1719. Installation of Pipe in a Ditch**

A. - B.2. ...

C. All offshore pipe in water at least 12 feet deep but not more than 200 feet deep, as measured from the mean low tide, except pipe in the Gulf of Mexico and its inlets under 15 feet of water, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. Pipe in the Gulf of Mexico and its inlets under 15 feet of water must be installed so that the top of the pipe is 36 inches below the seabed for normal excavation or 18 inches for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998).

#### **§1721. Installation of Plastic Pipe**

A. Plastic pipe must be installed below ground level unless otherwise permitted by Subsection G of this Section.

B. - F. ...

G. Uncased plastic pipe may be temporarily installed above ground level under the following conditions:

1. the operator must be able to demonstrate that the cumulative aboveground exposure of the pipe does not exceed the manufacturer's recommended maximum period of exposure or two years, whichever is less.

2. the pipe either is located where damage by external forces is unlikely or is otherwise protected against such damage.

3. the pipe adequately resists exposure to ultraviolet light and high and low temperatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1310 (July 1998).

#### **§1727. Cover**

A. Except as provided in §1727.C, E, F and G, each buried transmission line must be installed with a minimum cover as follows:

B. - D.3. ...

E. Except as provided in §1727.C, all pipe installed in a navigable river, stream, or harbor must be installed with a minimum cover of 48 inches in soil or 24 inches in consolidated rock between the top of the pipe and the natural bottom.

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet deep, as measured from the mean low tide, must be installed as follows:

1. except as provided in §1727.C, pipe under water less than 12 feet deep, must be installed with a minimum cover of 36 inches in soil or 18 inches in consolidated rock between the top of the pipe and the natural bottom.

2. pipe under water at least 12 feet deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

G. All pipelines installed under water in the Gulf of Mexico and its inlets, as defined in §125, must be installed in accordance with §2712.B.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998).

### **Chapter 19. Meters, Regulators, Service Lines and Valve Requirements**

#### **§1925. Service Lines: Plastic**

A. Each plastic service line outside a building must be installed below ground level, except that:

1. it may be installed in accordance with §1721.G; and
2. it may terminate above ground level and outside the building, if:
  - a. the above ground level part of the plastic service line is protected against deterioration and external damage; and
  - b. the plastic service line is not used to support external loads.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1310 (July 1998).

**§1931. Service Lines: Excess Flow Valve Performance Standards**

A. Excess flow valves to be used on single residence service lines that operate continuously throughout the year at a pressure not less than 10 psig must be manufactured and tested by the manufacturer according to an industry specification, or the manufacturer's written specification, to ensure that each valve will:

1. function properly up to the maximum operating pressure at which the valve is rated;
2. function properly at all temperatures reasonably expected in the operating environment of the service line;
3. at 10 psig:
  - a. close at, or not more than 50 percent above, the rated closure flow rate specified by the manufacturer; and
  - b. upon closure, reduce gas flow:
    - i. for an excess flow valve designed to allow pressure to equalize across the valve, to no more than 5 percent of the manufacturer's specified closure flow rate, up to a maximum of 20 cubic feet per hour; or
    - ii. for an excess flow valve designed to prevent equalization of pressure across the valve, to no more than 0.4 cubic feet per hour; and
4. not close when the pressure is less than the manufacturer's minimum specified operating pressure and the flow rate is below the manufacturer's minimum specified closure flow rate.

B. An excess flow valve must meet the applicable requirements of Chapters 7 and 11 of this Part.

C. An operator must mark or otherwise identify the presence of an excess flow valve in the service line.

D. An operator shall locate an excess flow valve as near as practical to the fitting connecting the service line to its source of gas supply.

E. An operator should not install an excess flow valve on a service line where the operator has prior experience with contaminants in the gas stream, where these contaminants could be expected to cause the excess flow valve to malfunction or where the excess flow valve would interfere with necessary operation and maintenance activities on the service, such as blowing liquids from the line.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:1311 (July 1998).

**Chapter 21. Corrosion Requirements**

**§2107. External Corrosion Control: Buried or Submerged Pipelines Installed after July 31, 1971**

A. - A.1. ...

2. it must have a cathodic protection system designed to protect the pipeline in its entirety in accordance with this Chapter, installed and placed in operation within one year after completion of construction.

B. - E. ...

F. This Section does not apply to electrically isolated, metal alloy fittings in plastic pipelines, if:

1. for the size fitting to be used, an operator can show by tests, investigation, or experience in the area of application that adequate corrosion control is provided by alloy composition; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998).

**§2127. Internal Corrosion Control: General**

A. - B.3. ...

C. Gas containing more than 0.25 grain of hydrogen sulfide per 100 standard cubic feet (four parts per million) may not be stored in pipe-type or bottle-type holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1311 (July 1998).

**§2137. Remedial Measures: Transmission Lines**

A. - B. ...

C. Under §2137.A and B, the strength of pipe based on actual remaining wall thickness may be determined by the procedure in ASME/ANSI B31G or the procedure in AGA Pipeline Research Committee Project PR 3-805 (with RSTRENG disk). Both procedures apply to corroded regions that do not penetrate the pipe wall, subject to the limitations prescribed in the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998).

**§2143. Corrosion Control Records**

A. Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system. Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode.

B. Each record or map required by Subsection A of this Section must be retained for as long as the pipeline remains in service.

C. Each operator shall maintain a record of each test, survey, or inspection required by this Subpart in sufficient detail to demonstrate the adequacy of corrosion control

measures or that a corrosive condition does not exist. These records must be retained for at least five years, except that records related to §§2117.A and E and 2127.B must be retained for as long as the pipeline remains in service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998).

### **Chapter 23. Test Requirements**

#### **§2313. Test Requirements for Plastic Pipelines**

A. - B. ...

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 psig, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under §917, at a temperature not less than the pipe temperature during the test.

D. During the test, the temperature of thermoplastic material may not be more than 38EC (100EF), or the temperature at which the material's long-term hydrostatic strength has been determined under the listed specification, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998).

### **Chapter 25. Upgrading**

#### **§2503. General Requirements**

A. - C. ...

D. Limitation on increase in maximum allowable operating pressure. Except as provided in §2505.C, a new maximum allowable operating pressure established under this Chapter may not exceed the maximum that would be allowed under this Part for a new segment of pipeline constructed of the same materials in the same location. However, when upgrading a steel pipeline, if any variable necessary to determine the design pressure under the design formula (§905) is unknown, the MAOP may be increased as provided in §2721.A.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998).

### **Chapter 27. General Operating Requirements**

#### **§2703. General Provisions**

A. - B. ...

C. The administrator or the state agency that has submitted a current certification under the pipeline safety laws, (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended

LR 10:503 (July 1984), LR 18:857 (August 1992), LR 21:821 (August 1995), LR 24:1312 (July 1998).

#### **§2707. Initial Determination of Class Location and Confirmation or Establishment of Maximum Allowable Operating Pressure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 24:1312 (July 1998).

#### **§2715. Damage Prevention Program**

A. - B.1. ...

2. provide for general notification of the public in the vicinity of the pipeline and actual notification of the persons identified in Subsection B.1 of the following as often as needed to make them aware of the damage prevention program:

2.a. - 6.b. ...

C. A damage prevention program under this Section is not required for the following pipelines:

1. pipelines located offshore;

2. pipelines, other than those located offshore, in Class 2 or 3 locations until September 20, 1995;

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998).

#### **§2721. Maximum Allowable Operating Pressure: Steel or Plastic Pipelines**

A. Except as provided in Subsection C of this Section, no person may operate a segment of steel or plastic pipeline at a pressure that exceeds the lowest of the following:

1. the design pressure of the weakest element in the segment, determined in accordance with §§901 through 1165 of Part XIII. However, for steel pipe in pipelines being converted under §507 or upgraded under Chapter 25 of this Part, if any variable necessary to determine the design pressure under the design formula (§905) is unknown, one of the following pressures is to be used as design pressure:

a. eighty percent of the first test pressure that produces yield under Section N5.0 of Appendix N of ASME B31.8, reduced by the appropriate factor in Subsection A.2.b of this Section; or

b. if the pipe is 324 mm (12¾ inches) or less in outside diameter and is not tested to yield under this Subsection, 1,379 kPa (200 psig).

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998).

#### **§2725. Odorization of Gas**

A. - C.3. ...

4. the combustible gas is hydrogen intended for use as a feedstock in a manufacturing process.

D. - G.6. ...

H. Quarterly Reports

1. Each operator shall conduct quarterly sampling of toxic or combustible gases to assure the proper concentration of odorant in accordance with this Section. Operators of master meter systems may comply with this requirement by:

- a. receiving written verification from their gas source that the gas has the proper concentration of odorant; and
- b. conducting periodic "sniff" tests at the extremities of the system to confirm that the gas contains odorant.

2. - 3. ...

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 21:823 (August 1995), LR 24:1312 (July 1998).

**Chapter 29. Maintenance Requirements**

**§2905. Transmission Lines: Patrolling**

A. - B. ...

C. Methods of patrolling include walking, driving, flying or other appropriate means of traversing the right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 24:1313 (July 1998).

**§2909. Line Markers for Mains and Transmission Lines**

A. - A.2. ...

B. Exceptions for buried pipelines. Line markers are not required for the following pipelines:

- 1. mains and transmission lines located offshore, or at crossings of or under waterways and other bodies of water;
- 2. mains in Class 3 or Class 4 locations where a damage prevention program is in effect under §2715;
- 3. transmission lines in Class 3 or 4 locations until March 20, 1996; or
- 4. transmission lines in Class 3 or 4 locations where placement of a line marker is impractical.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1313 (July 1998).

**§2911. Transmission Lines: Record Keeping**

Each operator shall maintain the following records for transmission lines for the periods specified:

- 1. the date, location, and description of each repair made to pipe (including pipe-to-pipe connections) must be retained for as long as the pipe remains in service.
- 2. the date, location, and description of each repair made to parts of the pipeline system other than pipe must be retained for at least five years. However, repairs generated by patrols, surveys, inspections, or tests required by Chapters 27 and 29 of this Part must be retained in accordance with Subsection A.3 of this Section.
- 3. a record of each patrol, survey, inspection, and test required by Chapters 27 and 29 of this Part must be retained

for at least five years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1313 (July 1998).

**§2923. Distribution Systems: Patrolling, Leakage Surveys and Procedures**

A. ...

1. ...

2. mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled:

- a. in business districts, at intervals not exceeding 4½ months, but at least four times each calendar year; and
- b. outside business districts, at intervals not exceeding 7½ months, but at least twice each calendar year.

B. - B.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:823 (August 1995), LR 24:1313 (July 1998).

Philip N. Asprodites  
Commissioner

9807#033

**RULE**

**Department of Natural Resources  
Office of Conservation  
Pipeline Division**

Hazardous Liquid Safety Standards  
(LAC 33:V.30107, 30129, 30259, 30269, and 30300)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., Department of Natural Resources, Office of Conservation, Pipeline Division amends the hazardous liquid regulations.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials  
Subpart 3. Natural Resources**

**Chapter 301. Transportation of Hazardous Liquids by Pipeline**

**Subchapter A. General**

**§30107. Matter Incorporated by Reference**

A. - B.5. ...

6. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

C. The full title for the publications incorporated by reference in this Part are as follows. Number in parenthesis indicated applicable editions:

- 1. American Gas Association (AGA): AGA Pipeline Research Committee, Project PR-3-805, *A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe*

(December 1989). The RSTRENG program may be used for calculating remaining strength.

2. American Petroleum Institute (API):
  - a. API Specification 5L *Specification for Line Pipe* (41st ed. 1995);
  - b. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21st ed. 1994);
  - c. API Specification 1104 *Welding of Pipelines and Related Facilities* (18th ed. 1994).
3. American Society of Mechanical Engineers (ASME):
  - a. ASME/ANSI B16.9 *Factory-Made Wrought Steel Buttwelding Fittings* (1993);
  - b. ASME/ANSI B31.4 *Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols* (1992 ed. with 1994 Addenda);
  - c. ASME/ANSI B31.8 *Gas Transmission and Distribution Piping Systems* (1995);
  - d. ASME/ANSI B31G *Manual for Determining the Remaining Strength of Corroded Pipelines* (1991);
  - e. Boiler and Pressure Vessel Code, Section VIII, Division 1 *Pressure Vessels* (1995 with Addenda);
  - f. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualifications* (1995 with Addenda).
4. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):
  - a. MSS SP-75 *Specification for High Test Wrought Butt Welding Fittings* (1993).
  - b. [Reserved]
5. American Society for Testing and Materials (ASTM):
  - a. ASTM Designation: A 53 *Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless* (A 53-94);
  - b. ASTM Designation: A 106 *Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service* (A 106-94);
  - c. ASTM Designation: A 333/A 333M *Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service* (A 333/A 333M-94);
  - d. ASTM Designation: A 381 *Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High Pressure Transmission Systems* (A 381-93);
  - e. ASTM Designation: A 671 *Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures* (A 671-94);
  - f. ASTM Designation: A 672 *Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures* (A 672-94);
  - g. ASTM Designation: A 691 *Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures* (A 691-93).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (July 1998).

## **Subchapter B. Reporting Accidents and Safety-Related Conditions**

### **§30129. Addressee for Written Reports**

Each written report required by this Subchapter must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 2335, 400 Seventh Street SW, Washington, D.C. 20590 and concurrently to Office of Conservation, Pipeline Safety, Box 94275, Baton Rouge, LA 70804-9275. However, accident reports for intrastate pipelines subject to the jurisdiction of a state agency pursuant to a certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) may be submitted in duplicate to that state agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Resources Manager. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (1994), amended LR 24:1314 (July 1998).

### **Subchapter F. Operation and Maintenance** **§30259. Procedural Manual for Operations, Maintenance, and Emergencies**

\* \* \*

B. Amendments. The administrator or the state agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 24:1314 (July 1998).

### **§30269. Line Markers**

A. - 1. ...

2. The marker must state at least the following on a background of sharply contrasting color:

- a. the word Warning, Caution, or Danger followed by the words Petroleum (or the name of the hazardous liquid transported) Pipeline, or Carbon Dioxide Pipeline, all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch high with an approximate stroke of one-quarter inch;

b. the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 24:1314 (July 1998).

**Chapter 303. Hazardous Liquid Pipelines Enforcement §30300. Damage Prevention Program**

A. After September 20, 1995, and except for pipelines listed in Subsection C of this Section, each operator of a buried pipeline shall carry out, in accordance with this Section, a written program to prevent damage to that pipeline by excavation activities. For the purpose of this Section, excavation activities include excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means and other earth moving operations. An operator may comply with any of the requirements of Subsection B of this Section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this Section.

B. The damage prevention program required by Subsection A of this Section must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located;

2. provide for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in Subsection B.1 of this Section of the following, as often as needed to make them aware of the damage prevention program:

a. the program's existence and purpose; and

b. how to learn the location of underground pipelines before excavation activities are begun;

3. provide means of receiving and recording notification of planned excavation activities;

4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;

5. provide for temporary marking of buried pipelines in the area of excavation activity before, as for as practical, the activity begins.

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

b. in the case of blasting, any inspection must include leakage surveys.

C. A damage prevention program under this Section is not required for the following pipelines:

1. pipelines located offshore;

2. pipelines to which access is physically controlled by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1315 (July 1998).

Philip N. Asprodites  
Commissioner

9807#034

**RULE**

**Department of Public Safety and Corrections  
Gaming Control Board**

Riverboat Gaming—Internal Controls;  
Tips or Gratuities (LAC 42:XIII.2721)

The Gaming Control Board hereby amends LAC 42:XIII.2721 in accordance with R.S. 27:1 et seq. and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part XIII. Riverboat Gaming**

**Chapter 27. Accounting Regulations**

**§2721. Internal Controls; Tips or Gratuities**

A. - B. ...

C. All tips and gratuities given to gaming employees other than slot machine gaming employees shall be:

1. - 3. ...

4. the licensee may elect to handle tips generated in its poker room separately from the pro rata distribution pool. Tips or gratuities may be assigned to the dealer generating the tip or gratuity, and the following procedures shall be used.

a. Each dealer shall have a locked transparent box marked with the dealer's name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained by someone other than a dealer, hereinafter referred to as the keyholder.

b. When a poker dealer arrives at his assigned poker table, the dealer and the keyholder shall obtain the dealer's marked transparent locked box from the locked storage cabinet. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table for any reason, the dealer's marked box shall be removed from the table by the dealer and the keyholder and returned to the storage cabinet.

c. At the end of the dealer's shift, the dealer along with an independent verifier (an employee independent of the table games and cage departments), shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer and the independent verifier. The

amount shall be recorded on a three-part voucher, and signed by the cage employee, the dealer, and the independent verifier. The three parts of the voucher shall be distributed as follows:

- i. one part shall be given to the dealer;
- ii. one part shall be maintained by the cage; and
- iii. one part shall be forwarded to the payroll department.

d. Tips or gratuities counted above shall be deposited into the licensee's payroll account. Distribution to the dealer for the tips or gratuities earned by the dealer at poker tables shall be made in accordance with the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No distributions shall be made to the dealer in any other manner.

e. A poker room dealer may tip any cashier working as the poker room cashier during the poker room dealer's shift. Any such tip shall be handled when the poker room dealer's tips are counted as defined above. A section of the dealer's tip voucher shall be marked to allow the dealer to indicate which cashier the dealer wishes to tip and the amount of the tip. The tip shall be deducted from the dealer's total tips at the time of the count. Tips given to a cashier in this manner shall be distributed to the cashier in accordance with the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No tips from a poker room dealer shall be made to a cashier in any other manner.

f. The licensee shall maintain a minimum level of supervision, as approved by the Division, over the poker room tables. Surveillance shall be required to continuously monitor and record open poker tables.

**D. Repealed.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended by the Gaming Control Board, LR 24:1315 (July 1998).

Hillary J. Crain  
Chairman

9807#018

**RULE**

**Department of Public Safety and Corrections  
Public Safety Services  
Office of Motor Vehicles**

**Driver's License—Reciprocity Agreements  
with Foreign Countries (LAC 55:III.171-181)**

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, hereby adopts rules pertaining to the implementation of the law authorizing the department to enter into reciprocity agreements with foreign countries which would allow citizens of the foreign countries to apply for and obtain Louisiana driver's licenses without having to take the written test or the skills test.

**Title 55**

**PUBLIC SAFETY AND CORRECTIONS**

**Part III. Motor Vehicles**

**Chapter 1. Driver's License**

**Subchapter B. Reciprocity Agreements with Foreign Countries**

**§171. General**

A. The department may enter into reciprocity agreements with a foreign country which would allow citizens of that foreign country to apply for and be issued a Louisiana driver's license without having to take the written test and the skills test. Similarly, citizens of Louisiana would be able to apply for and be issued a driver's license in the same foreign country without having to take a written test or a skills test, or in the alternative, the foreign country may allow the Louisiana resident to drive in the foreign country with the Louisiana driver's license.

B. The deputy secretary of Public Safety Services may sign the reciprocity agreement on behalf of the department. A duly authorized representative of the foreign government may sign the agreement on behalf of the foreign government.

C. Prior to entering into such a reciprocity agreement, both parties shall undertake a review process of the other party's licensing requirements to determine that the licensing requirements are compatible. The nature, scope and extent of the review shall be at the sole discretion of the party conducting the review. The parties may enter into the reciprocity agreement only if both parties determine the licensing requirements of both parties are compatible.

D. The reciprocity agreement shall specify the rights and obligations of both parties. To the extent the laws of Louisiana regarding public contracts are applicable to the reciprocity agreement, the reciprocity agreement shall be subject to those laws.

E. The reciprocity agreement shall provide that any action against the state or the department, or both, arising out of the reciprocity agreement, shall be brought in the 19th Judicial District Court for the Parish of East Baton Rouge.

F. The reciprocity agreement shall provide that all persons who are issued a Louisiana driver's license pursuant to the agreement shall be subject to all criminal, civil, and administrative laws governing the operation of a motor vehicle including, but not limited to, laws regulating traffic on public highways, roads and streets, the Implied Consent Law, the compulsory automobile liability insurance law, and the vehicle registration and titling laws. The reciprocity agreement shall also provide that persons issued driver's licenses pursuant to the agreement shall be subject to sanctions for violating state laws and rules promulgated pursuant to state law in the same manner as residents of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1316 (July 1998).

**§173. Application for a Driver's License Pursuant to a Reciprocity Agreement; Graduated Driver's License; Reports of Driver Condition or Behavior**

A. Only in those cases in which a foreign country has

entered into a reciprocity agreement with the department, may a citizen of that foreign country apply for a Louisiana driver's license pursuant to a reciprocity agreement. The application shall be on a form approved by the department for an application for a driver's license. The person shall meet all the requirements contained in state law regarding eligibility for a driver's license, except that the person applying pursuant to the reciprocity agreement does not have to take the written or the road skills test.

B. Regardless of the nature of the license from the foreign country, a person under the age of 17 must comply with the graduated license requirements in order to obtain a driver's license.

C. Nothing in these rules shall be construed as prohibiting the department from requiring a person licensed pursuant to a reciprocity agreement from submitting to a special examination in the event the department receives a report of driver condition or behavior. If the department receives such a report, the department may require the person to submit to any examination that would be required of a Louisiana resident including a medical examination, a written test or a road skills test. The department may suspend or revoke any such driver's license if the person does not successfully complete the special examination.

D. The person applying for a Louisiana driver's license pursuant to a reciprocity agreement shall present a valid driver's license from his country. The person shall be required to keep the license from his country valid during the entire time he possesses a Louisiana license. If at any time, the person has his foreign country driver's license suspended, canceled, or revoked, he shall immediately surrender his Louisiana driver's license and cease operating a motor vehicle in Louisiana.

E. The person applying for a Louisiana driver's license pursuant to a reciprocity agreement shall sign a statement in which the person agrees to be bound by the terms of the reciprocity agreement and the rules contained in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1316 (July 1998).

#### **§175. Revocations, Suspensions; Compact State**

A. A person who has a revoked or suspended Louisiana driver's license, or who has been denied a Louisiana driver's license because of failure to meet a statutory qualification, shall neither apply for, nor be issued, a driver's license pursuant to a reciprocity agreement.

B. A person who has a driver's license suspended or revoked by a state which is a member of the driver's license compact, shall neither apply for, nor be issued, a driver's license pursuant to a reciprocity agreement.

C. In those cases described in either §175.A or B in which the driver's license has been suspended or revoked, the person must clear all suspensions or revocations before being eligible to apply for a driver's license pursuant to a reciprocity agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1317 (July 1998).

#### **§177. Effective Dates of Reciprocity Agreements; Policy and Procedure Statements**

A. All reciprocity agreements shall provide for an effective date and a termination date. The reciprocity agreement may provide for automatic renewals at the end of the specified term, but the agreement shall state that either party may choose not to renew the reciprocity agreement upon 60 days' written notice to the other party. All licenses issued pursuant to a canceled reciprocity agreement shall be revoked 30 days after a public announcement of the cancellation of the reciprocity agreement, or upon the expiration of the 60 days after the issuance of the written notice of cancellation, whichever is longer.

B. In the event of an imminent threat to the public health, safety, or welfare, either party may suspend a reciprocity agreement upon written notice to the other party. If a reciprocity agreement is suspended, no new driver's licenses and no renewals of driver's licenses shall be issued pursuant to the reciprocity during the period of suspension. The party suspending the reciprocity agreement shall specify the duration of the suspension, or specify that the suspension is indefinite.

C. Any new reciprocity agreement, or any amendment to a reciprocity agreement shall not take effect until sufficient time has been given for the department to implement any necessary changes to its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1317 (July 1998).

#### **§179. Commercial Driver's Licenses; Class of License**

A. A commercial driver's license, Class "A," "B," or "C," shall not be issued pursuant to any reciprocity agreement.

B. Except as provided in §179.A, the class of license issued by the department pursuant to a reciprocity agreement shall be of the same class or of a similar class of license issued by the foreign country.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1317 (July 1998).

#### **§181. Declaratory Orders**

A. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule, to the regulation of the reciprocity agreements with foreign countries for the issuance of driver's licenses shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the

complete physical and mailing address of the person, and a daytime telephone number.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:404(F) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1317 (July 1998).

Thomas Normile  
Undersecretary

9807#019

## RULE

### Department of Revenue Office of Alcohol and Tobacco Control

#### Expiration Dates on Permits (LAC 55:VII.321)

In accordance with the provisions of R.S. 49:950 et seq., and the authority of R.S. 26:794, the Department of Revenue, Office of Alcohol and Tobacco Control has amended LAC 55:VII.321, which governs the expiration dates of retail alcohol permits.

The purpose of the amendment is to stagger the expiration dates of new retail permits and readjust the expiration dates of existing retail permits at the time of their renewal. This new system allows for the year-round equal distribution of expiring permits based upon the location of the licensed establishment.

### Title 55

### PUBLIC SAFETY

### Part VII. Alcohol and Tobacco Control

#### Subpart 1. Beer and Liquor

#### Chapter 3. Liquor Credit Regulations

#### §321. Staggering of Expiration Dates

A. In accordance with the authority of R.S. 26:794(B), the expiration dates of retail permits issued by the Office of Alcohol and Tobacco Control shall be staggered in accordance with the provisions of this Section.

1. - 8. Repealed.

B. Purpose. The purpose of this staggering process is to

provide for the even distribution of expiration dates of new and existing permits based upon the parish in which the licensed establishment is located. This will allow the Office of Alcohol and Tobacco Control to concentrate its limited resource to the particular region of the state in which all retail permits are scheduled to expire. The expiration date of retail permits will be easy to determine and thereby assist both state and local enforcement agents, retail and wholesaler dealers in the enforcement of the licensing requirements contained in Title 26. This in turn will reduce the ever-increasing number of delinquent renewal applications filed with this office and eliminate the purchase and resale of alcoholic beverages by unlicensed establishments.

#### C. New Business Application and Related Fees

1. Beginning February 18, 1998, the expiration date of all retail permits issued pursuant to new-business applications shall have an expiration date to be determined by the Office of Alcohol and Tobacco Control in accordance with Subsection G of this Section.

2. The fee for all such new business permits shall be as set forth in Sections 71 and 271 of Title 26.

#### D. Renewal of Existing Permits and Related Fees

1. The renewal of an existing permit during this staggering process shall be for a period of not less than seven months nor more than 18 months, which period shall be determined by the Office of Alcohol and Tobacco Control in accordance with Subsection G of this Section.

2. The fee for such a permit shall be determined by a proration of the annual fee as established by Title 26 over the appropriate number of months.

#### E. Renewal Deadline: Penalties

1. Applications for the renewal of permits issued pursuant to this regulation shall be due in the Office of Alcohol and Tobacco Control not later than 30 days prior to the date of expiration on current permit.

2. The monetary penalties established in Sections 88 and 285 of Title 26 for those permittees who fail to timely file their renewal application shall remain in effect. The permittee shall be charged the delinquency penalty over and above the prorated fee.

F. Gross Sales. The payment of an additional permit fee by retailers based on the amount of their gross liquor sales as provided in Section 71 of Title 26 shall continue and shall be assessed on the gross sales made during the preceding calendar year. In renewal permits issued pursuant to this regulation, the additional fee shall be prorated over the appropriate number of months.

G. Expiration Date of Retail Permit. All retail permits issued after February 18, 1998, by the Office of Alcohol and Tobacco Control shall expire in accordance with the following schedule:

Parish Code	Parish Name	Expire Month
1	Acadia	October
2	Allen	March
3	Ascension	January
4	Assumption	November

5	Avoyelles	July
6	Beauregard	March
7	Bienville	September
8	Bossier	September
9	Caddo	September
10	Calcasieu	March
11	Caldwell	December
12	Cameron	March
13	Catahoula	December
14	Claiborne	September
15	Concordia	December
16	DeSoto	September
17	East Baton Rouge	January
18	East Carroll	December
19	East Feliciana	August
20	Evangeline	July
21	Franklin	December
22	Grant	December
23	Iberia	October
24	Iberville	July
25	Jackson	December
26	Jefferson	February
27	Jefferson Davis	March
28	Lafayette	October
29	Lafourche	November
30	LaSalle	December
31	Lincoln	September
32	Livingston	August
33	Madison	December
34	Morehouse	December
35	Natchitoches	December
36	Orleans	May
37	Ouachita	December
38	Plaquemines	April
39	Point Coupee	July
40	Rapides	July
41	Red River	September
42	Richland	December
43	Sabine	September

44	St. Bernard	April
45	St. Charles	April
46	St. Helena	August
47	St. James	April
48	St. John	April
49	St. Landry	July
50	St. Martin	October
51	St. Mary	November
52	St. Tammany	August
53	Tangipahoa	August
54	Tensas	December
55	Terrebonne	November
56	Union	December
57	Vermillion	March
58	Vernon	March
59	Washington	August
60	Webster	September
61	West Baton Rouge	July
62	West Carroll	December
63	West Feliciana	August
64	Winn	December

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:794.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 12:247 (April 1986), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1318 (July 1998).

Murphy Painter  
Commissioner

9807#030

## RULE

### Department of Revenue Office of Alcohol and Tobacco Control

#### Tobacco Permits (LAC 55:VII.3101-3113)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 26:922, the Department of Revenue, Office of Alcohol and Tobacco Control has adopted LAC 55:VII.3101-3113 to regulate the sale of tobacco products.

In order to comply with the Prevention of Youth Access to Tobacco Law, Act 1370 of the 1997 Regular Session of the Louisiana Legislature, comprised of R.S. 26:901-922, was enacted to provide for the Office of Alcohol and Tobacco

Control (previously the Office of Alcoholic Beverage Control) to issue licenses to dealers who sell tobacco products at wholesale, retail, or through vending machines, effective October 1, 1997. The Act, which also provides for definitions, fees, and fines, directed the Office of Alcohol and Tobacco Control to promulgate rules and regulations to implement the Act by July 1, 1998.

## **Title 55**

### **PUBLIC SAFETY**

#### **Part VII. Alcohol and Tobacco Control**

##### **Subpart 2. Tobacco**

##### **Chapter 31. Tobacco Permits**

###### **§3101. Definitions**

For the purposes of this Chapter, the following terms are defined.

*Dealer*—every person who manufactures or purchases cigars, cigarettes, or other tobacco products for distribution or resale in this state. The term also means any person who imports cigars, cigarettes, or other tobacco products from any state or foreign country for distribution, sale, or consumption in this state.

*Manufacturer*—anyone engaged in the manufacture, production, or foreign importation of tobacco products who sells to wholesalers.

*Retail Dealer*—every dealer, other than a wholesale dealer or manufacturer, who sells or offers for sale cigars, cigarettes, or other tobacco products, irrespective of quantity or the number of sales.

*Vending Machine*—any mechanical, electric, or electronic self-service device that, upon insertion of money, tokens, or any other form of payment, automatically dispenses tobacco products.

*Vending Machine Operator*—any person who controls the use of one or more vending machines as to the supply of cigarettes or any tobacco products in the machine or the receipts from cigarettes vended through such machines.

*Wholesale Dealer*—dealers whose principal business is that of a wholesaler, who sells cigars, cigarettes, or other tobacco products to retail dealers for purpose of resale, who is a bona fide wholesaler, and 50 percent of whose total tobacco sales are to retail stores other than their own or their subsidiaries within Louisiana. Wholesale dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services 50 or more cigarette vending machines in Louisiana other than his own, and those Louisiana dealers who were affixing cigarette and tobacco stamps as of January 1, 1974.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:901.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998).

###### **§3103. Identifying Information for Licenses**

###### **A. Certificate and Permits**

1. A Retail Dealer Registration Certificate shall be issued to any dealer, not otherwise required by Title 26 to obtain a permit, other than a wholesale dealer or vending machine operator for each retail outlet where cigars, cigarettes, or other tobacco products are offered for sale either over the counter or by vending machine.

2. A Retail Dealer Permit shall be issued to a dealer other than a wholesale dealer or vending machine operator for each retail outlet where cigars, cigarettes, or other tobacco products are offered for sale either over the counter or by vending machine.

3. A Vending Machine Operator Permit shall be issued to a vending machine operator operating one or more vending machines. Licensed wholesale dealers who operate vending machines shall not be required to obtain a vending machine operator permit.

4. A Vending Machine Permit shall be issued to the vending machine operator or wholesale dealer for each vending machine he operates and such permit shall be affixed to the upper front surface of the vending machine.

5. A Wholesale Dealer Permit shall be issued to a wholesale dealer for each wholesale place of business operated by the wholesale dealer.

B. The following identifying information shall be listed on the face of all retail dealer registration certificates, retail dealer permits, vending machine operator permits, and wholesale dealer permits:

1. the name of the license holder;
2. the name and address of the establishment for which the license is obtained;
3. the license number;
4. the dates of issuance and expiration;
5. the amount paid for the license.

C. The following identifying information shall be listed on the face of all vending machine permits:

1. the name of the license holder;
2. the vending machine operator permit number;
3. the vending machine permit number;
4. the address for the location of the vending machine;
5. the date of expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:902.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998).

###### **§3105. Additional Information for Licenses: Partnership, Corporation, Limited Liability Company (LLC)**

A. In addition to all other information required of an applicant by Title 26, any partnership, corporation, or limited liability company applying for a tobacco license shall provide the written agreement (partnership) or certificate (corporation and LLC) to the Office of Alcohol and Tobacco Control.

B. This requirement is waived for any applicant who also has a liquor license with the Office of Alcohol and Tobacco Control, provided the applicant includes the liquor license number on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:906(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998).

###### **§3107. Expiration of Licenses**

A. The expiration of Retail Dealer Registration Certificates and Retail Dealer Permits shall be staggered to expire in accordance with the following schedule:

Parish Code	Parish Name	Month Permit Expires
01	Acadia	October
02	Allen	March
03	Ascension	January
04	Assumption	November
05	Alveolus	July
06	Beauregard	March
07	Bienville	September
08	Bossier	September
09	Caddo	September
10	Calcasieu	March
11	Caldwell	December
12	Cameron	March
13	Catahoula	December
14	Claiborne	September
15	Concordia	December
16	DeSoto	September
17	East Baton Rouge	January
18	East Carroll	December
19	East Feliciana	August
20	Evangeline	July
21	Franklin	December
22	Grant	December
23	Iberia	October
24	Iberville	July
25	Jackson	December
26	Jefferson	February
27	Jefferson Davis	March
28	Lafayette	October
29	Lafourche	November
30	LaSalle	December
31	Lincoln	September
32	Livingston	August
33	Madison	December
34	Morehouse	December
35	Natchitoches	December
36	Orleans	May
37	Ouachita	December
38	Plaquemines	April
39	Point Coupee	July
40	Rapides	July

41	Red River	September
42	Richland	December
43	Sabine	September
44	St. Bernard	April
45	St. Charles	April
46	St. Helena	August
47	St. James	April
48	St. John	April
49	St. Landry	July
50	St. Martin	October
51	St. Mary	November
52	St. Tammany	August
53	Tangipahoa	August
54	Tensas	December
55	Terrebonne	November
56	Union	December
57	Vermillion	March
58	Vernon	March
59	Washington	August
60	Webster	September
61	West Baton Rouge	July
62	West Carroll	December
63	West Feliciana	August
64	Winn	December

B. All Vending Machine Operator Permits shall expire each year on June 30.

C. All Vending Machine Permits shall expire each year on June 30.

D. All Wholesale Dealer Permits shall expire each year on December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:904.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998).

**§3109. Initial Application and Related Fees**

A. Retail Dealer Registration Certificate

1. The initial \$25 annual fee for a Retail Dealer Registration Certificate shall be prorated over the appropriate number of months.

2. The annual renewal fee will be \$25 as established in Title 26 of the Revised Statutes.

B. The fee for a Retail Dealer Permit shall be \$75 per year or any portion thereof, as established in Title 26 of the Revised Statutes.

C. The fee for a Vending Machine Operator Permit shall be \$75 per year or any portion thereof, as established in Title 26 of the Revised Statutes.

D. The fee for a Vending Machine Permit shall be \$5 per machine per year or any portion thereof, as established in Title 26 of the Revised Statutes.

E. The fee for a Wholesale Dealer Permit shall be \$75 per year or any portion thereof, as established in Title 26 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:903 and R.S. 26:904.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1321 (July 1998).

**§3111. Renewal Deadline: Penalties**

A. For a renewal application to be timely filed, the application and the appropriate fee must be received by the Office of Alcohol and Tobacco Control on or before the license expiration date.

B. Failure to timely file the renewal application will subject the license holder to the delinquency penalties authorized by R.S. 26:905.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:905.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1322 (July 1998).

**§3113. Special Event Permits and Related Fees**

A. The Office of Alcohol and Tobacco Control may issue a special event permit for a duration of three consecutive days, with no more than 12 such permits issued to any one person within a single calendar year.

B. The fee for a special event permit shall be \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:923.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1322 (July 1998).

Murphy J. Painter  
Commissioner

9807#031

**RULE**

**Department of Social Services  
Office of Family Support**

Electronic Benefits Transfer (EBT) (LAC 67:III.402, 407)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 1, General Administrative Procedures.

**Title 67  
SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 1. General Administrative Procedures**

**Chapter 4. Electronic Benefits Issuance System**

**§402. Delivery of Benefits**

A. FITAP and Food Stamp Program benefits shall be delivered through EBT in staggered cycles to ongoing households beginning on the first day of each month. The last

digit of the Social Security number determines the date that benefits are issued. FITAP benefits will be available within the first five days of each month. Food stamp benefits will be available within the first 14 days of each month. Food stamp cases that contain elderly or disabled persons will have benefits available during the first four days of each month. Other issuance authorizations will be posted to the EBT account the day after they are authorized.

B. Benefits are delivered in this manner for households certified on an ongoing basis. Benefits can accumulate but are accounted for according to the month of availability and will be withdrawn on a first-in-first-out basis. Each month's benefits with no activity by the client for a period of 90 days from the date of availability will be moved to dormant status and the case may be closed. These benefits can be returned to active status at the local Office of Family Support offices upon request of the head of household. Benefits that remain in dormant status for a period of 270 days will be expunged and will not be available to the household after expungement. FITAP benefits which have been expunged may be reauthorized for availability if the recipient has good cause for not having accessed them during the original availability period.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272.3(c)(1)(ii) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998).

**§407. Participation of Approved Prepared-meal Facilities**

A. Facilities providing prepared meals that are authorized by the United States Department of Agriculture, Food and Nutrition Service and, in some instances, the agency, to accept food stamp benefits for prepared meals may be authorized redemption points using the EBT card. Participating facilities are subject to all applicable regulations of this provision. If found guilty of abuse, misuse or fraud by using the EBT card or benefits in a manner or intent contrary to the purpose of the Food Stamp Program, a facility may be permanently disqualified from participation and have all equipment provided by the vendor disconnected and removed from the facility after due process.

1. A facility must maintain confidentiality in accordance with Food Stamp Program rule by requiring privacy when accepting payments or payment/contributions from recipients.

2. Settlement of funds to a facility will be made electronically as a direct deposit to the financial institution selected by the facility.

3. A facility must sign a contract with the agency's EBT vendor and be certified to the vendor's system prior to participation.

**B. Types of Facilities**

1. Duly authorized non-residential facilities such as communal dining facilities or Meals-on-Wheels may accept food stamp benefits for single meals.

2. Duly authorized residential facilities such as homeless shelters or battered women's shelters may accept food stamp benefits for multiple meals or ongoing food maintenance. Such establishments may accept food stamp payments or contributions not to exceed the biweekly rate of the facility. This requirement will ensure that recipients have adequate

benefits remaining in their accounts upon departure from the establishment.

C. A facility with redemption of food stamp benefits of \$100 or more per month will be provided a Point-Of-Sale (POS) terminal to enable acceptance of the EBT card. A facility with redemption of less than \$100 per month will utilize paper voucher authorizations for the acceptance of food stamp benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 282.1(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998).

Madlyn B. Bagneris  
Secretary

9807#074

## RULE

### Department of Social Services Office of Family Support

Family Independence Temporary Assistance  
Program (FITAP)—Drug Testing Program  
(LAC 67:III.1301, 1302, 1303)

The Department of Social Services, Office of Family Support (OFS) has adopted the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, §§1301-1303 in the Family Independence Temporary Assistance Program (FITAP).

Pursuant to Act 1459 of the 1997 Regular Session of the Legislature, the Department of Social Services in consultation with the Department of Health and Hospitals establishes mandatory drug screening, testing, education and rehabilitation for adult FITAP recipients.

The agency anticipates that all current adult recipients will have been screened within 6 to 12 months of the date of implementation. Although agency policy is routinely effective the first day of the month following publication of the final rule, this action will be effective upon publication.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 2. Family Independence Temporary Assistance Program (FITAP)

#### Chapter 13. Special Conditions of Eligibility

#### Subchapter A. Drug Screening, Testing, Education and Rehabilitation Program

#### §1301. Compliance

All adult recipients of FITAP must be free from the use of or dependency on illegal drugs. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the drug screening, testing, education and rehabilitation process. An illegal drug is a controlled substance as defined in R.S. 40:961 et seq.—*Controlled Dangerous Substance*.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1323 (July 1998).

#### §1302. Screening and Referral Process

A. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a standardized drug abuse screening test approved by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse (OADA).

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to OADA to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the release of information form, and a photograph of the individual for identification purposes.

2. Additionally, if at any time the OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs received from a reliable source, the caseworker will refer the recipient to OADA to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

B. OADA will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OADA will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OADA or by a contract provider and may include additional testing and monitoring. The OADA assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. Child care and transportation costs required for participation in the drug screening, testing, education and rehabilitation program will be paid by the Office of Family Support.

D. If residential treatment is recommended by OADA and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OADA will coordinate with the Office of Community Services to arrange for the care of such children.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1323 (July 1998).

#### §1303. Failure to Cooperate

A. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following.

1. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

2. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

3. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

4. A subsequent failure to cooperate will result in case closure until the recipient cooperates.

5. *Cooperation* is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

B. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for FITAP cash benefits until such time that OADA determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1323 (July 1998).

Madlyn B. Bagneris  
Secretary

9807#080

## RULE

### Department of Transportation and Development Office of the General Counsel

Cash Management Plan  
(LAC 70:I.Chapter 11)

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 "Department of Transportation and Development Cash Management Plan," in accordance with R.S. 48:251(D).

#### Title 70 TRANSPORTATION

#### Part I. Office of the General Counsel

#### Chapter 11. Cash Management Plan

#### §1101. Phased Funding

The department will initiate phased funding of multi-year construction projects by only appropriating sufficient funds in any fiscal year to pay for anticipated actual construction contract obligations incurred in that fiscal year. A multi-year phased funding plan will be developed for each long-term construction contract approved by the secretary for phased funding. The phased funding plan will provide annual anticipated expenditure projections over the life of the project based on contractor supplied information and data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 24:1324 (June 1998).

#### §1103. Project Eligibility for Phased Funding

In order to qualify for phased funding, the proposed project must be a multi-year construction and/or renovation project which is either:

1. federally aided and exceeding \$10,000,000 in estimated total cost; or

2. a purely state-funded or TIMED project exceeding \$5,000,000 in estimated total cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 24:1324 (June 1998).

Frank M. Denton  
Secretary

9807#029

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Resident Game Hunting Season—1998-99  
(LAC 76:XIX.101 and 103)

In accordance with the notice of intent published in the March 1998 *Louisiana Register*, the Louisiana Wildlife and Fisheries Commission, at its regular monthly meeting in July, hereby amends its regulations on open hunting season dates, bag limits, methods of taking, and rules and regulations on department-operated wildlife management areas for the period September 1, 1998 through August 31, 1999. Authority to establish regulations is vested in the commission by §115 of Title 56 of the Louisiana Revised Statutes of 1950.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part XIX. Hunting

#### Chapter 1. Resident Game Hunting Season

#### §101. General

The Resident Game Hunting Season, 1998-99 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998).

#### §103. Resident Game Birds and Animals 1998-99

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on wildlife management areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 14-Feb. 28	10	20
Rabbit	Oct. 3-Feb. 28	8	16
Squirrel	Oct. 3-Feb. 14	8	16
Pheasant	Nov. 14-Jan. 31	2 (Cock Only)	4
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6

C. Deer Hunting Schedule

Area	Archery	Muzzle Loader (All Either Sex)	Still Hunt	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 14-Nov. 20 Jan. 25-Jan.31	Nov.21-Dec. 4 Jan. 9-Jan.24	Dec. 5- Dec.13 Dec. 19- Jan.8
2	Oct. 1-Jan. 31	Oct. 17-Oct. 23 Jan. 4-Jan. 10	Oct. 24-Dec.4	Dec. 5- Jan. 3
3	Sept.19- Jan.19	Oct. 5-Oct. 9 Dec. 12-Dec. 18	Oct. 10-Dec.6 Dec. 19-Jan.3	
4	Oct. 1-Jan. 31	Nov. 14-Nov. 20 Jan. 4-Jan. 10	Nov. 21-Jan.3	
5	Oct. 1-Jan. 31	Nov. 14-Nov. 20 Jan. 4-Jan. 10 (Bucks Only)	Nov.21-Nov.29	
6	Oct. 1-Jan. 31	Nov. 14-Nov. 20 Jan. 25-Jan. 31	Nov. 21-Dec.4	Dec. 5- Dec.13 Dec.19- Jan.24
7	Oct. 1-Jan. 31	Oct. 3-Oct. 9 Jan. 18-Jan. 24	Oct.10-Oct.25 Nov. 21-Dec.6	Dec.12- Jan.17

D. Modern Firearm Schedule (Either Sex Seasons)

Area	Basic Season Dates	Total Days	Exceptions (Those portions of the following parishes)
1	Nov.21-22, 27-29 Dec.5-6, 12-13	9	Nov.21-22, 27-29 (Franklin, Catahoula, LaSalle, Caldwell) Nov.21-22, 27-29, Dec.5-6 (Avoyelles, Grant, Rapides)
2	Oct.24-25, Oct.31-Nov. 1, Nov. 7-8, 27-29, Dec. 5-6	11	Oct.24-25, Nov.27-29 (Caldwell, LaSalle) Oct.24-25, Nov.27-29, Dec.5-6 (Avoyelles)
3	Oct.10-11, 24-25, Oct.31-Nov.1, Nov.7-8, 27-29	11	Oct.10-11, Nov.27-29, Dec.5-6 (St. Landry)
4	Nov.21-22, 27-29	5	Nov.21-22, 27-29, Dec.5-6, 12-13 (East Carroll--that portion lying between the Mississippi River Levee and the Mississippi River)
5	None		

6	Nov.21-22, 27-29, Dec.5-6, 12-13	9	Nov.21-22, 27-29, Dec.5-6 (Avoyelles, Rapides, St. Landry)
7	Oct.10-11, Nov.21-22, 27-29, Dec.12-13	9	

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998).

Thomas M. Gattle, Jr.  
Chairman

9807#086

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**White-Tailed Deer Importation (LAC 76:V.117)**

(Editor's Note: The following rule, published on page 1140 of the June 1998, *Louisiana Register*, is being repromulgated to correct typographical errors.)

**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 made 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), repromulgated LR 24:1325 (July 1998).

Thomas M. Gattle, Jr.  
Chairman

9807#002