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Executive Orders

EXECUTIVE ORDER MJF 00-9

Bond Allocation for Denham Springs/Livingston
Housing and Mortgage Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Denham Springs/Livingston Housing and Mortgage Finance Authority has requested an allocation from the 2000 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences of low and moderate income home-buyers throughout the parish of Livingston, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. MIKE FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$5,000,000	Denham Springs/Livingston Housing and Mortgage Finance Authority	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before June 26, 2000.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The

undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of March, 2000.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0004#070

EXECUTIVE ORDER MJF 00-10

Bond Allocation for East Baton Rouge
Parish Mortgage Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the East Baton Rouge Parish Mortgage Finance Authority has requested an allocation from the 2000 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences of low and moderate income home-buyers throughout the parish of East Baton Rouge, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. MIKE FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$25,000,000	East Baton Rouge Parish Mortgage Finance Authority	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before June 26, 2000.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of March, 2000.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0004#071

EXECUTIVE ORDER MJF 00-11

Calcasieu Parish Public Trust Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter ~~A~~the 2000 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Calcasieu Parish Public Trust Authority has requested an allocation from the 2000 Ceiling to be used in connection with a program of financing mortgage loans for first time home-buyers of single family, owner-occupied residences, throughout the parish of Calcasieu, state of Louisiana in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. AMIKE@ FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$7,000,000	Calcasieu Parish Public Trust Authority	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the AApplication for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling@ submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before June 26, 2000.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of March, 2000.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0004#072

EXECUTIVE ORDER MJF 00-12

Bond Allocation@ Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter ~~A~~the 2000 Ceiling@);

EXECUTIVE ORDER MJF 00-13

Bond Allocation Parish Of Jefferson
Home Mortgage Authority

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation from the 2000 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences owned by low and moderate income home-buyers throughout the state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. MIKE FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$30,000,000	Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before June 26, 2000.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of March, 2000.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0004#073

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter the 2000 Ceiling);

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 2000 Ceiling to be used in connection with a program of financing certain qualifying mortgage loans for single family, owner-occupied residences throughout the parish of Jefferson, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$25,000,000	Parish Of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before June 26, 2000.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of March, 2000.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0004#074

EXECUTIVE ORDER MJF 00-14

Executive Department Spending Freeze

WHEREAS, the Louisiana Fund (hereafter "Fund") is a dedicated fund established by LSA-R.S. 39:98.6(A) and is authorized to receive one hundred percent of the Tobacco Settlement Revenues in Fiscal Year 1999-2000;

WHEREAS, Act No. 10 and Act No. 20 of the 1999 Regular Session of the Legislature provided appropriations from the Fund;

WHEREAS, the governor has been notified by the commissioner of administration that the total appropriation from the Fund will exceed the official revenue forecast for the Fund by \$14,150,691 and that a spending freeze is necessary to avoid a budget deficit;

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, Act No. 10 and Act No. 20 of the 1999 Regular Session of the Legislature, and other provisions of law, the governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of state government upon notification that a projected deficit exists for a dedicated fund; and

WHEREAS, the interests of the citizens of the state of Louisiana are best served by implementing prudent money management practices in the form of a spending freeze in the Fund to achieve a savings in the Fund of at least \$14,151,000 for the remainder of the 1999-2000 fiscal year to ensure that the state of Louisiana will not suffer a budget deficit in the Fund due to fiscal year 1999-2000 appropriations exceeding actual revenues of the Fund;

NOW THEREFORE, I, M.J. AMIKE@ FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The following departments, agencies and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations

from the Fund through Act No. 10 and Act No. 20 of the 1999 Regular Session of the Legislature, shall reduce their expenditures from the Fund, in the amounts shown below:

A. Appropriations from Act No. 10 of the 1999 Regular Session of the Legislature

- 1) Executive Department
Budget Unit 01-100 Executive Office
 - a) Off-system bridge repair program \$2,500,000
- 2) Department of Health and Hospitals
Budget Unit 09-326 Office of Public Health
 - a) Smoking cessation grants \$2,500,000
- 3) Higher Education
Budget Unit 19-671 Board of Regents
 - a) Louisiana Genetics Research Institute \$191,000
 - b) Research grants in health care services \$5,000,000

B. Appropriations from Act No. 20 of the 1999 Regular Session of the Legislature

- 1) Department of Natural Resources
Budget Unit 11-431 Office of the Secretary
 - a) Capital Outlay for the Atchafalaya Basin Protection \$170,000
- 2) Department of Economic Development
Budget Unit 05-251 Office of the Secretary
 - a) Capital Outlay for the Louisiana Genetics Research Consortium \$1,500,000
- 3) Miscellaneous Non-State
Budget Unit 50-J37 Ouachita Parish
 - a) Capital Outlay for the Ouachita Parish Health Unit \$1,800,000
 - b) Capital Outlay for the Tensas Parish Health Unit \$490,000

SECTION 2: This Order is effective upon signature and shall continue in effect through June 30, 2000, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 31st day of March, 2000.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0004#075

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) Definitions (LAC 28:IV.301)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the TOPS rules to allow the Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective March 14, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

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

Chapter 3. Definitions

§301. Definitions

Award Amount an amount equal to Tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "Cost of Attendance." For purposes of a TOPS award for a student enrolled in a Louisiana professional school shall be equal to the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school or the Weighted Average Award Amount, depending upon whether the Louisiana professional school is a public or private school.

Tuition the fee charged each student by a postsecondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students, except for the Technology Fee authorized by Act 1450 of the 1997 Regular Session of the Legislature, which were in effect as of January 1, 1998, and any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date. Tuition for purposes of a TOPS award for a student enrolled in Louisiana professional school shall be equal to the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school or the Weighted Average

Award Amount, depending upon whether the Louisiana professional school is a public or private school.

Undergraduate Student a student who has not completed the requirements for a baccalaureate degree program.

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

HISTORICAL NOTE: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:

Mark S. Riley
Assistant Executive Director

0004#001

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) Establishing Eligibility
(LAC 28:IV.703, 803)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the TOPS rules to allow the Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective March 14, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

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

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

§703. Establishing Eligibility

A. - A.5.a. ...

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of

high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

A.5.a.ii. - G2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.6. ...

a. Core Curriculum & TOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology

1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units).
2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

b. - 11. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:64 (January 2000), LR 26:

Mark S. Riley
Assistant Executive Director

0004#003

DECLARATION OF EMERGENCY

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

Tuition Opportunity Program for Students
(TOPS) & Obligation, Deferral and Cancellation
(LAC 28:IV.911, 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the TOPS rules to allow the Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective March 14, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28
EDUCATION**

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

Chapter 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - B.2. ...

3. the first two full semesters of full-time teaching will be applied toward the earliest dated disbursement not previously paid under §911.C, the second two full semesters the next earliest dated disbursement, and continuing until all disbursements have been fulfilled;

C. - C.3.a. ...

b. the date the recipient notifies LASFAC that monetary repayment is desired; or

C.3.c. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 23:1651 (December 1997), repromulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), amended LR 26:

**§2105. Repayment Obligation, Deferment and
Cancellation**

A. - B.4. ...

5. Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher; or

6. - C.2. ...

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

HISTORICAL NOTE: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:649 (April 1998), amended LR 24:1918 (October 1998), amended LR 26:

Mark S. Riley
Assistant Executive Director

0004#002

DECLARATION OF EMERGENCY

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

**Program Requirements Implementation
(LAC 33:I.4719) (OS035E¹)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality (Department) to use emergency procedures to establish rules, and of R.S. 30:2011 and R.S. 30:2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the Secretary of the Department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

The department relies on analytical data submitted both directly and indirectly to the department to determine

compliance with both State and Federal regulations. As a result of deadlines established in current Louisiana regulations, the department is prohibited from accepting data from commercial laboratories that have not received accreditation by the department. Presently, no commercial laboratories have received departmental accreditation. This rule will extend the deadline to apply for accreditation to July 1, 2000, and the deadline for accreditation by the department to December 31, 2000. A finding of imminent peril to public health, safety and welfare is based on the inability to accept and review analytical data. Furthermore, the environmental analytical laboratory industry could suffer a loss of jobs.

The department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The department must have access to accurate, reliable, precise data in order to meet its mandate to protect human health and the environment.

This is a renewal of Emergency Rule OS035E, effective December 15, 1999, and published in the *Louisiana Register* on January 20, 2000. Rulemaking procedures have begun to promulgate this rule.

This emergency rule is effective on April 12, 2000, and shall remain in effect for the maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS035E¹, you may contact the Regulation Development Section at (225) 765-0399.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4719. Implementation

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC 33:I.4701.A.1, including the review fee by July 1, 2000. The department shall not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section. The department shall not accept environmental data submitted to the department either directly or indirectly until the laboratory has applied for accreditation under these regulations.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 by December 31, 2000, or as otherwise agreed to by the department and the applicant, not to exceed one year from December 31, 2000. The department will not accept data generated by laboratories that do not comply with these deadlines until such laboratories receive accreditation and fully comply with the requirements of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

J. Dale Givens
Secretary

0004#059

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees
Group Benefits Program**

Exclusive Provider Organization (EPO) Plan of Benefits
(LAC 32:V.601)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of R.S. 49:953(B)

The Board finds that it is necessary to amend the EPO Plan Document to modify the wellness benefits by providing such benefits for services billed by health care providers that have entered into contracts with the State Employees Group Benefits Program. Failure to adopt this rule on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, amending the definitions of *Well-Adult Care* and *Well-Child Care* in EPO Plan Document, is effective March 31, 2000, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

§601. Definitions

Well-Adult Care means a routine physical examination by a physician that may include an influenza vaccination, lab work and x-rays performed as part of the exam, and billed by a health care provider that has entered into a contract with the State Employees Group Benefits Program, with wellness procedure and diagnosis codes. All other health services coded with wellness procedures and diagnosis codes are excluded.

Well-Child Care means routine physical examinations, active immunizations, check-ups and office visits to a Physician, and billed by a health care provider that has entered into a contract with the State Employees Group Benefits Program, except for the Treatment and/or diagnosis of a specific illness, from age 1 to age 16.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1820 (October 1999), amended LR 26:

A. Kip Wall
Interim Chief Executive Officer

0004#060

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees
Group Benefits Program**

Preferred Provider Organization (PPO) Plan of Benefits
(LAC 32:III.601)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of R.S. 49:953(B)

The Board finds that it is necessary to amend the PPO Plan Document to modify the wellness benefits by providing such benefits for services billed by health care providers that have entered into contracts with the State Employees Group Benefits Program. Failure to adopt this rule on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, amending the definitions of *Well-Adult Care* and *Well-Child Care* in PPO Plan Document, is effective March 31, 2000, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider Organization (PPO) Plan of Benefits

Chapter 6. Definitions

§601. Definitions

Well-Adult Care means a routine physical examination by a physician that may include an influenza vaccination, lab work and x-rays performed as part of the exam, and billed by a health care provider that has entered into a contract with the State Employees Group Benefits Program, with wellness procedure and diagnosis codes. All other health services coded with wellness procedures and diagnosis codes are excluded.

Well-Child Care means routine physical examinations, active immunizations, check-ups and office visits to a Physician, and billed by a health care provider that has entered into a contract with the State Employees Group Benefits Program, except for the Treatment and/or diagnosis of a specific illness, from age 1 to age 16.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1840 (October 1999), amended LR 26:

A. Kip Wall
Interim Chief Executive Officer

0004#061

DECLARATION OF EMERGENCY

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

Targeted Case Management Services and Targeted EPSDT Case Management

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in July of 1999 restructuring targeted case management services under the Medicaid Program in order to enhance the quality of services and assure statewide access to services (*Louisiana Register*, Vol. 25, No. 7). In accordance with a settlement agreement, the Department now proposes to extend the provision of case management services to a new targeted group of Medicaid eligibles. The new targeted population shall be composed of Early, Periodic Screening, Diagnosis and Treatment (EPSDT) recipients who are on the Mental Retardation/Developmental Disability (MR/DD) Waiver waiting list and meet the specified eligibility criteria. In addition, the Department proposes to amend the staff qualifications contained in the July 1999 rule to establish a new staff position for case management agencies entitled case manager trainee.

This emergency rule is being adopted to continue the provisions of the December 1, 1999 rule in force.

Emergency Rule

Effective April 7, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing extends the provision of case management services to a new targeted group of Medicaid eligibles. This new targeted population shall be composed of Early Periodic Screening Diagnostic Treatment (EPSDT) recipients who are between the ages of 0 and 21 years old, on the MR/DD Waiver waiting list and meet the specified eligibility criteria. The point of entry for targeted EPSDT case management services shall be the Office of Citizens with Developmental Disabilities (OCDD) regional offices. However, for those recipients under three years of age, case management services will continue to be provided through Childnet. This new targeted population shall be served by agencies who have accepted the Department's amendment to their existing contract. In addition, the staffing qualifications contained in the July

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1999 rule are being amended to establish a new staff position for case management agencies entitled case manager trainee.

I. Eligibility

A. In order to be eligible to receive case management services, the EPSDT recipient must be in the above-referenced age range and meet one of the following criteria:

1. placement on the MR/DD waiver waiting list on or after October 20, 1997 and have passed the OCDD Diagnosis and Evaluation (D&E) process by the later of October 20, 1997, or the date they were placed on the MR/DD waiver waiting list; or

2. placement on the MR/DD waiver waiting list on or after October 20, 1997, but did not have a D&E by the later of October 20, 1997, or the date they were placed on the MR/DD waiver waiting list. Those recipients in this group who have either passed or will ultimately pass the D&E process are eligible for these targeted case management services. Those recipients who either do not pass or are undergoing the D&E process may still receive case management services if they meet the definition of a person with special needs.

Special needs are defined as a documented, established medical condition, as determined by a licensed physician, that has a high probability of resulting in a developmental delay or that gives rise to a need for multiple medical, social, educational and other services. In the case of a hearing impairment, the determination of special needs must be made by a licensed audiologist or physician.

B. Documentation that substantiates that the EPSDT recipient meets the definition of special needs for case management services includes, but is not limited to:

1. receipt of special education services through the state or local education agency; or

2. receipt of regular services from one or more physicians; or

3. receipt of or application for financial assistance such as SSI because of a medical condition, or the unemployment of the parent due to the need to provide specialized care for the child; or

4. a report by the recipient's physician of multiple health or family issues that impact the recipient's ongoing care; or

5. a determination of developmental delay based upon the Parents' Evaluation of Pediatric Status, the Brignance Screens, the Child Development Inventories, Denver Developmental Assessment, or any other nationally recognized diagnostic tool.

II. Case Management Trainee

The case management trainee position may be utilized to provide services to the following target populations: Infants and Toddlers, HIV, MR/DD Waiver, Elderly and Disabled Adult Waiver and Targeted EPSDT. The case management trainee must meet the following educational qualifications: a bachelor's degree in social work, psychology, education, rehabilitation counseling, or a human-service-related field from an accredited college or university. The case management agency must obtain prior approval from the Bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is twenty recipients.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge,

Louisiana 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0004#053

DECLARATION OF EMERGENCY

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

Targeted Case Management Services Nurse Home Visits for First Time Mothers

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in July of 1999 restructuring targeted case management services under the Medicaid Program in order to enhance the quality of services and assure statewide access to services (*Louisiana Register*, Vol. 25, No.7). The Department now proposes to amend the July 1999 rule to extend the provision of case management services to a new targeted population of Medicaid recipients. The new targeted population shall be composed of first time mothers who reside in the Department of Health and Hospitals (DHH) designated regions of Thibodaux (3), Lafayette (4), Lake Charles (5), and Monroe (8). DHH Administrative Region 3 consists of Assumption, LaFourche, St Charles, St James, St John, St Mary, and Terrebonne Parishes. DHH administrative Region 4 consists of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermillion Parishes. DHH administrative Region 8 consists of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, and West Carroll Parishes. In addition, the staffing qualifications contained in the July 1999 rule are being amended to include specific requirements for case management agencies serving the new targeted population. The standards for participation are also being amended to include a new provider enrollment requirement applicable to all new case management agencies.

This action is necessary to protect the health and welfare of the Medicaid recipients in the targeted population group by providing access to case management services that encourage early prenatal care and reduces infant mortality. It is anticipated that the implementation of this emergency rule will increase expenditures by approximately \$1,141,440 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of services on or after November 21, 1999, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 1999 rule governing case management services to include a new targeted population of Medicaid recipients. The new targeted population shall be first time mothers who reside in the Department of Health and Hospitals (DHH) designated administrative regions of Thibodaux (3), Lafayette (4), Lake Charles (5), and Monroe (8). Providers of Nurse Home Visits for First Time Mothers case management must provide home visit services for eligible recipients in all parishes of the Thibodaux, Lafayette, Lake Charles, and Monroe regions.

I. Eligibility Criteria

A Medicaid recipient must not be beyond the 28th week of pregnancy and must attest she meets one of the following definitions of a first-time mother in order to receive Nurse Home Visits of case management services:

- A. is expecting her first live birth, has never parented a child and plans on parenting this child; or
- B. is expecting her first live birth, has never parented a child and is contemplating placing the child for adoption; or
- C. has been pregnant, but has not delivered a child because of an abortion or miscarriage; or
- D. is expecting her first live birth, but has parented stepchildren or younger siblings; or
- E. had previously delivered a child, but her parental rights were legally terminated within the first six months of that child's life; or
- F. has delivered a child, but the child died within the first six months of life.

A physician's statement, medical records, legal documents, or birth and death certificates will be required as verification of first-time mother status.

After the birth of the child, the focus of Nurse Home Visit for First-Time Mothers case management is transferred from the mother to the child and services may continue until the child's second birthday. However, recipients may not receive more than one type of Medicaid funded case management at a time. A complete reassessment and a update of the comprehensive plan of care must be completed to incorporate the needs of the child within six weeks of the delivery and 30 days prior to the child's first birthday. If during the reassessment it is determined that the child qualifies for Childnet and Infants and Toddler's case management, the Nurse Home Visit case manager shall transfer the child to the Infant and Toddler Program.

II. Staffing Qualifications

Case managers and supervisors providing services to this targeted population must meet the following educational qualifications: possession of a license or temporary permit to practice professional nursing in the State of Louisiana, certification of training in the David Olds Prenatal and Early Childhood Nurses Home Visit Model and the supervisor must have one year of professional nursing experience. A master's degree in nursing or public health may be

substituted for the required one year of professional nursing experience for the supervisor.

III. Standards for Participation

All new providers interested in enrolling to provide Medicaid case management services must submit a written request to the Division of Home and Community Based Waiver Services (DHCBS) identifying the case management population and the region they wish to serve. A new provider must attend a Provider Enrollment Orientation prior to obtaining a provider enrollment packet. The Bureau will offer orientation sessions at least twice per year. Enrollment packets will only be accepted for service delivery in those DHH regions that currently have open enrollment for case management agencies interested in serving certain targeted populations.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0004#083

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimping in State Territorial Waters

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to set special seasons for all or part of the state waters, and a resolution adopted by the Wildlife and Fisheries Commission on February 3, 2000 which authorized the Secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the Secretary hereby declares that the State Territorial Waters east of the Atchafalaya River Channel at Eugene Island as designated by the Channel Buoy line, shall reopen to shrimping at 6:00 a.m., Monday, March 20, 2000.

Small white shrimp that were in these waters in January and February are no longer in this area, according to recent shrimp samples taken by Department personnel. Large numbers of small white shrimp still occur west of the Atchafalaya River, and this area will remain closed to shrimping.

James H. Jenkins, Jr.
Secretary

0004#016

Rules

RULE

Department of Agriculture and Forestry Horticulture Commission

Definitions, Licenses, and Permits
(LAC 7:XXIX.102, 117, and 121)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby amends regulations regarding the required standards of practice for the landscape architect license and the re-issuance of suspended, revoked or un-renewed license or permit.

The Department of Agriculture and Forestry, Horticulture Commission adopts these rules and regulations for the purpose of defining arborist and landscape architect as well as amending the landscape architect license requirements and the re-issuance of suspended, revoked or un-renewed license or permit.

These rules are enabled by R.S. 3:3801 and R.S. 3:3814.

Title 7

AGRICULTURE and ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§102. Definitions

Arborist any person trained in the care and removal of shade and ornamental trees. Shade and ornamental trees may be defined as those on an existing homesite or commercial property and those on property permitted for development for commercial or residential purposes. This definition shall also apply to any tree within 100 feet of any improvements on these properties.

Landscape Architect any person that applies creative and technical skills and scientific, cultural and political knowledge in the planned arrangement of natural and constructed elements on the land with a concern for the stewardship and conservation of natural, constructed and human resources.¹

¹American Society of Landscape Architects (ASLA)
Definition of Landscape Architecture, ASLA Member
Handbook, adopted November 18, 1983.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3814.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 26:627 (April 2000).

§121. Re-issuance of Suspended, Revoked or un-renewed License or Permit

A. - C.5. ...

D. Whenever a licensee fails to renew a license:

1. If the period of non-renewal is more than three years, but less than or equal to five years, the license may be re-issued upon payment of fees required under L.R.S. 3:3807 (D).

2. If the period of non-renewal is more than five years, he or she must either retake the appropriate exam or petition the commission for re-issuance of the license. The

holder of the un-renewed license must provide evidence that they have been active in the appropriate profession during the period of non-renewal. If the commission approves the re-issuance of the license, the license will be re-issued only after payment of fees under R.S. 3:3807 (D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000).

Bob Odom
Commissioner

0004#041

RULE

Department of Civil Service Board of Ethics

Records and Reports
(LAC 52:I.610, 1012, 1202, 1204, 1304,
1309, 1310, 1604, 1903 and 1905)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics pursuant to its authority in Section 1134A of the Code of Governmental Ethics (R.S. 42:1134A).

Title 52

ETHICS

Part I. Board of Ethics

Chapter 6. Advisory Opinions

§610. Finality

An advisory opinion rendered by the board shall be final on the date of mailing of the advisory opinion, if there has been no timely request for reconsideration of the advisory opinion in accordance with §609, or thereafter upon order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 26:627 (April 2000).

Chapter 10. Hearings

§1012. Consolidation of Public Hearings

When public hearings of two or more respondents involve similar or related circumstances, the board may, on its own motion, on motion of the trial attorney or on motion of a respondent, order a joint hearing of all respondents or may order separate hearings for specified respondents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1295 (October 1997), amended LR 26:627 (April 2000).

Chapter 12. Penalties

§1202. Late Filing; Notice

A. The staff shall mail by certified mail a notice of delinquency within two business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer, that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000).

§1204. Late Filing; Fee Schedule

A. Definitions. For purposes of §1204, the following definitions shall apply.

Amount of Activity means the total amount of receipts or expenditures, whichever is greater.

Person Regularly Responsible means the person designated by the person required to file a report, in accordance with any law under the jurisdiction of the board, who is responsible for keeping the records and filing the reports on behalf of the required filer.

B. The staff shall impose automatic late fees according to the following schedule:

1. the late filing fees for election campaign finance reports shall be as provided in R.S. 18:1505.4;

2. the late filing fees for any lobbyist reports shall be as provided in R.S. 24:58(D);

3. the late filing fees for any report required by R.S. 42:1119(B)(2)(a)(ii) shall be as provided in R.S. 42:1119(B)(2)(a)(ii);

4. the late filing fees for any report required by R.S. 42:1119(B)(2)(b)(ii) shall be as provided in R.S. 42:1119(B)(2)(b)(ii);

5. the late filing fees for any violation of R.S. 42:1114, 1114.1 or 1124 shall be as provided in R.S. 42:1124(C).

C. An automatic late fee shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which occurred on the due date or during the seven days prior to the date the report was due:

1. death of the person required to file or the person regularly responsible, or a death in their immediate family, as defined in R.S. 42:1102(13);

2. serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from filing the report timely;

3. a natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence.

D. If a report is filed more than ten days late and the amount of activity on the report is less than the amount of the late fee to be assessed, the staff may reduce the late fee to the amount of activity or ten times the per day penalty, whichever is greater.

E. An automatic late fee shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate

officially withdrew with the Secretary of State from the election and received no contributions or loans and/or made any expenditures, excluding his qualifying fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000).

Chapter 13. Records and Reports

§1304. Statements Filed Pursuant to Section 1114 and Section 1114.1 of the Code

A. Statements filed pursuant to Section 1114 of the Code shall:

1. be in writing on a form approved by the board;

2. be filed annually no later than May 1st and shall include the required information for the previous calendar year;

3. contain a statement by the filer that the information contained in the statement is true and correct to the best of his knowledge, information and belief, and that no information required to be disclosed by Section 1114 has been deliberately omitted; and

4. be signed by the filer.

B. Statements filed pursuant to Section 1114(A) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;

2. the nature of the business activity;

3. the name and address, and relationship to the public servant, if applicable; and

4. the name and business address of the legal entity, if applicable.

C. Statements filed pursuant to Section 1114(B) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;

2. the nature of the business activity;

3. the name and address, and relationship to the legislator, if applicable; and,

4. the name and business address of the legal entity, if applicable.

D. Statements filed pursuant to Section 1114(C) of the Code shall contain:

1. the amount of income or value of anything of economic value derived;

2. the nature of the business activity;

3. the name and address, and relationship to the elected official, if applicable; and

4. the name and business address of the political subdivision, if applicable.

E. The executive secretary shall maintain these forms suitably indexed.

F. Public servants who fail to accurately disclose information in statements filed pursuant to R.S. 42:1114 and R.S. 42:1141.1 may be assessed, by the board, a late fee of one hundred dollars per day, not to exceed a maximum late fee of two thousand five hundred dollars, until such information is disclosed by amendment to the appropriate report.

G. For purposes of R.S. 42:1114.1B(1)(b), "third parties" shall not include employees of the members of the legislature, his spouse or any business enterprise in which such member and/or his spouse owns at least ten percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997), amended LR 26:628 (April 2000).

§1309. Disclosure Forms Filed Pursuant to R.S.

42:1119(B)(2) of the Code

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a)(ii) of the Code shall:

1. be on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed no later than 30 days after the beginning of the school year;

3. be signed by the school board member or superintendent and contain:

a. the name, address, and position of the school board member or superintendent;

b. the name, relationship, and position of the immediate family member and the date of the family member's employment;

c. the parish in which the school board member or superintendent serves and the date of the commencement of such service; and

d. which of the following exceptions applies to the immediate family member:

i. classroom teacher certified to teach;

ii. employed by school board for more than one year prior to the school board member or the superintendent becoming a member of the school board or the superintendent; or

iii. served in public employment on April 1, 1980, the effective date of the Code.

B. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(b)(ii) of the Code shall:

1. be in writing and on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed no later than January thirtieth of each year;

3. be signed by the chief executive or member of the board of a hospital service district or hospital public trust authority and contain:

a. the name, address, and position of the chief executive or member of the board of a hospital service district or hospital public trust authority;

b. the calendar year for which the disclosure statement is being filed;

c. the name, relationship, and position of the immediate family member and the date of the family member's employment;

d. the name of the hospital service district or public trust authority that the chief executive or member of the board of a hospital service district or hospital public trust authority serves and the date of the commencement of such service; and

e. which of the following exceptions applies to the immediate family member:

i. employed by the hospital service district or public trust authority for more than one year prior to the chief executive or member of a board of a hospital service district or hospital public trust authority becoming the chief executive or board member for the hospital service district or hospital public trust authority;

ii. served in public employment on April 1, 1980, the effective date of the Code; or

iii. the hospital service district or public trust authority is located in a parish with a population of 100,000 or less and the family member is employed as a licensed physician or registered nurse.

C. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), amended LR 26:629 (April 2000).

§1310. Disclosure Forms Filed Pursuant to R.S.

42:1114(D)(2) of the Code

Repealed

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1604. Registration and Reporting; Forms

A. - C. ...

D. At the time that an out-of-state political committee, as defined by LSA-R.S. 18:1483(14)(b), files a copy of its current annual report, which reflects contributions or expenditures made in support of or in opposition to a candidate or a proposition in a Louisiana election, as required by LSA-R.S. 18:1491.9, the out-of-state political committee shall designate in writing to the Supervisory Committee, an in-state agent together with the mailing address and phone number of said agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 25:24 (January 1999), LR 26:629 (April 2000).

Chapter 19. Lobbyist Disclosure Act

§1903. Registration and Reporting Forms

A. - B. ...

C. The method of signature shall be as provided in §1803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999), amended LR 26:629 (April 2000).

§1905. Automatic Termination of Registration for Failure to Renew; Retroactivity

Repealed

R. Gray Sexton
Administrator

0004#047

RULE

**Department of Economic Development
Economic Development Corporation**

Small Business Equity Corporation
(LAC 13:III.Chapter 13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Louisiana Economic Development Corporation hereby repeals, in its entirety, *Louisiana*

Administrative Code Title 13, Economic Development; Part III, Financial Assistance Programs; Chapter 13, Louisiana Small Business Equity Corporation.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 13. Louisiana Small Business Equity Corporation

Repealed

Dennis Manshack
Executive Director

0004#023

RULE

**Department of Economic Development
Office of Commerce and Industry
Division of Business Incentives**

Gaming Ineligibility (LAC 13:I.Chapter 3)

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

The Board of Commerce and Industry serves in an advisory capacity to the Department of Economic Development. The Commerce and Industry Board's duty and function is to review and approve, or disapprove applications for tax exemption programs administered by the Office of Commerce and Industry.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentives Programs

Chapter 3. Gaming Ineligibility

§301. Gaming Ineligible

A.1. Any entity who has received or applied for a license to conduct gaming or is owned, controlled or managed by a company that has received or applied for a license to conduct gaming shall be ineligible to receive a contract for any tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry.

2. If an entity who has received a contract for any tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry, subsequently, during the term of such contract, applies for or receives a license to conduct gaming or becomes owned, controlled or managed by a company that has applied for or received a license to conduct gaming, the Board shall, after notice, terminate the contract, and the entity shall repay any tax exemption, credit, rebate or other benefit received pursuant to the contract. The entity shall notify the Board of its application for or receipt of a gaming license or change in ownership, control or management.

3. An entity who is owned, controlled or managed by a company that has received or applied for a license to conduct gaming may apply for a contract for a tax exemption, credit, rebate or other benefit granted by the Board of Commerce and Industry if the business operated by that entity is not related to and does not provide support to

the gaming activity. The burden shall be on the applicant to prove that the business is not related to and does not provide support to the gaming activity. If the Board determines that the entity has provided sufficient proof that the entity is not related to and does not provide support to the gaming activity the Board may, in its discretion, grant a contract for any tax exemption, credit, rebate or other benefit.

B. Definitions

Bingo the game of chance commonly known as bingo or keno played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on such a card.

Economic Interest any interest in a contract, license or licensee whereby a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit.

Game any banking or percentage Same which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value. Game does not include a lottery, bingo, pull-tabs, raffles, electronic video bingo, cable television bingo, dog race wagering, or any wagering on any type of sports event, including but not limited to football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event or racehorse wagering.

Gaming Device any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine, including but not limited to slot machines or video draw poker devices, used directly or indirectly in connection with gaming or any game which affects the result of a wager by determining wins or losses. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any Same, or which determines the outcome of a game.

Gaming Operations or Gaming Activities

a. the use, operation, offering or conducting of any game or gaming device;

b. the conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruise ship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit;

c. the intentional conducting or assisting in the conducting of gaming activities upon a riverboat as defined and authorized in R.S. 4:501-4:562, whereby a person risks the loss of anything of value in order to realize a profit;

d. the intentional conducting or assisting in the conducting of gaming operations at the official gaming establishment as defined and authorized in Chapter 10 of Title 4 of the Louisiana Revised Statutes of 1950.

Pull Tabs single or banded tickets or cards each with its face covered to conceal one or more numbers or symbols, where one or more card or ticket in each set has been designated in advance as a winner.

Racehorse Wagering wagers placed on horse racing conducted under the pari-mutuel form of wagering at licensed racing facilities that is accepted by a licensed racehorse wagering operator.

Raffle the game of chance commonly known as raffle or raffles played by drawing for prizes or the allotment of prizes by chance, by the selling of shares, tickets, or rights to participate in such game or games, and by conducting the game or games accordingly.

Slot Machine any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

Video Draw Poker device any unit, mechanism, or device authorized pursuant to the provisions of this Part, that, upon insertion of cash, is available to play or simulate the play of the Same of draw poker or other card games, utilizing a cathode ray tube or video display screen and microprocessors in which the player may win games or credits that can be redeemed for merchandise or cash. The term does not include a device that directly dispenses coins, cash, tokens, or anything else of value, except the ticket voucher required in accordance with the provisions of this Part. The term does not include any device authorized to be used in the conducting of charitable gaming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:926, 51:1786(6), 47:4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 21:258 (March 1995), amended by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives, LR 26:630 (April 2000).

R. Paul Adams
Director

0004#017

RULE

**Department of Economic Development
Office of Commerce and Industry
Division of Business Incentives**

University Research and Development
Parks Program (LAC 13:I.Chapter 9)

Under the authority of R.S. 17:3389, the Department of Economic Development and the Board of Commerce and Industry hereby repeals all pre-existing rules in Chapter 15, and adopt the Louisiana University Research and Development Parks Program rules, Title 13, Part 1, Chapter 15. These rules are for clarity and define existing verbiage.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

**Chapter 15. Louisiana University Research and
Development Parks Program**

§1501. General

A. Intent of Law. To provide for the reduction in taxes for concerns located in research and development parks

operating in association with a public or regionally accredited independent university in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:631 (April 2000).

§1503. Definitions

A. For purposes of these rules, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise.

Concern means any technology-driven or innovative, growth-oriented company engaged in the application of science, especially to industrial or commercial objectives. Such companies should be engaged in the development, manufacture, assembly or sale of products or services that emerge from or depend upon the practical application of scientific or technological advances.

Construction Period begins the first day on which foundations are started, or where foundations are unnecessary, the first day that materials or equipment for that project are received, and ends the day that construction is completed or operations begin, whichever is later.

Developer means to aid in the growth of or bring into being.

Innovative Growth-Oriented means utilizing new concepts or ideas to induce or sustain growth.

Manufacturing Establishment for the purposes of receiving benefits under this program shall mean those engaged in the mechanical or chemical transformation of materials or substances into new products, or assembling component parts if the finished product is neither a structure nor other fixed improvement.

Park Area means the area included in any research and development park which is operated in association with a public or regionally accredited independent university in the state.

Park Developer means person(s) or entity responsible for preparing the park area for use.

Program means the Louisiana University Research and Development Parks Program.

Research means a scientific or scholarly investigation process.

Technology means the application of science, especially to industrial or commercial objectives and the whole body of methods and materials used to achieve such objectives.

University Research and Development Park includes nonprofit or for-profit research and development parks that have established a relationship with a university or are part of a university. The relationship may be a contractual one including joint ventures or actual operation of a research and development park by a university, or it may take the shape of a formal operational relationship including cooperative or sponsored ventures between a research park and university. A University Research and Development Park shall have:

- a. existing or planned land and buildings primarily designed for private and public research and development facilities, technology driven and science-based companies relating to manufacturing, assembly, or support services;
- b. a contractual and/or operational relationship(s) with a university or other institution of higher education;

c. a role in promoting research and development by the university in partnership with industry, assisting in the growth of new ventures, and promoting economic development;

d. a role in aiding the transfer of technology and business skills between the university and industry tenants;

e. a resolution from the affiliated university describing its participation in the program.

B. Park developer must submit a resolution to the Office of Commerce and Industry as soon as a park has been established. The resolution must give the following information:

1. specific location and boundaries of the park;
2. documentation of university affiliation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:631 (April 2000).

§1505. Criteria

To qualify for the Louisiana University Research and Development Parks Program tax incentives an applicant must be a *concern*, as defined in §903.A, must provide documentation evidencing its location in a University Research and Development Park, must document its association with a Louisiana public or regionally accredited independent university, and must demonstrate, by written statement, its viability to contribute to the improved scientific information and technology available to the citizens of Louisiana and its ability, through improved economic conditions, to stimulate the creation of jobs and the development of the park area. The statement should include all factors which are relevant to the continued and expanded operations of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:632 (April 2000).

§1506. Resolution from Local Governmental Subdivision

The local governmental authority must file with the Board of Commerce and Industry a resolution for each park located within the jurisdiction of its political subdivision, adopted by the governing authority, which provides for participation by that governmental subdivision in the program. The resolution by the local governing authority shall authorize the Board of Commerce and Industry to grant rebates and/or exemptions on eligible sales taxes of the local political subdivision as outlined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:632 (April 2000).

§1507. Filing of Applications

A. An advance notification of intent to file an application for the Louisiana University Research and Development Parks tax incentives shall be filed prior to the beginning of construction, acquisition of equipment, or occupation of existing facilities. An advance notification fee of \$100 shall be submitted with the prescribed advance notification form. Any purchases made prior to the filing of the advance

notification may not be eligible for exemption and/or credit. Applications must be filed with the Office of Commerce and Industry, P.O. Box 94185, Baton Rouge, LA 70804-9185 on the prescribed form, along with any required additional information, within six months after the beginning of construction or three months before completion of construction or the beginning of operations, whichever occurs later.

B. An application must be submitted to the Office of Commerce and Industry at least 60 days prior to the Board of Commerce and Industry meeting where it will be heard. An application fee shall be submitted with the application based on 0.2 percent of the estimated total amount of taxes to be rebated, exempted, or credited. In no case shall an application fee be smaller than \$200 and in no case shall a fee exceed \$5,000 per project. A fee of \$50 shall be charged for the renewal of a contract. An estimated five year income and franchise tax liability must be provided to the Board of Commerce and Industry. This information will be requested on the application form and is to be used to estimate the economic impact of the project to the state.

C. A copy of any application requesting rebate of and/or exemption from taxes of any political subdivision shall be transmitted by the applicant to the governing authority of each political subdivision levying any such taxes. Rebates made by local governing subdivisions may include all of those sales taxes that are not dedicated to the repayment of bonded indebtedness.

D. Within six months after construction has been completed, the applicant from the establishment shall file, on the prescribed form, an affidavit of final cost showing complete cost of the project, together with a fee of \$100 for the plant inspection which will be conducted by the Office of Commerce and Industry. Upon request by the Office of Commerce and Industry, a map showing the location of all facilities claiming exemptions in the project will be submitted in order that the property for which rebates are claimed may be clearly identified.

E. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemptions or the fee submitted is incorrect. The document may be resubmitted with the correct fee and/or information. Documents will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees for advance notifications, applications, renewals, or affidavits of final cost which have been accepted, will not be refundable.

F. The applicant proposing a project with a construction period greater than two years must file a separate application for each construction phase. An application fee shall be submitted with each application filed, based on the fee schedule in §907.B above.

G. The Office of Commerce and Industry is authorized to grant a six-month extension for filing of the application. An authorized representative of the Board of Commerce and Industry must approve a further extension. All requests for extension must be in writing and must state why the extension is requested.

H. In addition to the information contained in the application, the applicant shall make available any additional relevant information pertinent to the application that the

secretary of the Department of Economic Development or the Board of Commerce and Industry may request.

I. Please make checks payable to: Louisiana Office of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:632 (April 2000).

§1509. Recommendations of the Secretaries of Economic Development and Revenue

The Office of Commerce and Industry shall forward the application with its recommendations to the secretary of Economic Development and the secretary of Revenue for their review. Within 30 days after the receipt of the application the secretaries of Economic Development and Revenue shall submit their recommendations (the secretary of Revenue shall submit a Letter of No Objection in lieu of a letter of recommendation) in writing to the assistant secretary of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:633 (April 2000).

§1511. Application Shall be Presented to the Board of Commerce and Industry

The Office of Commerce and Industry shall present an agenda of applications to the Board of Commerce & Industry with the written recommendations of the secretaries of Economic Development and Revenue, an endorsement resolution of the local taxing authorities, and shall make recommendations to the Board based upon its findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:633 (April 2000).

§1513. Contract Approvals

The Board of Commerce and Industry, after acting on the application, shall forward its recommendation, together with all supporting documentation and the recommendations of the Department of Economic Development and the Department of Revenue, to the Governor and the Joint Legislative Committee on the Budget. When the Governor and Joint Legislative Committee on the Budget find that a concern satisfies the requirements of the law and these rules, they shall advise the Board of Commerce and Industry that it may enter into a contract with such a concern providing for tax rebates, exemptions, and/or credits as allowed by R.S. 17:3389. The contract shall be under the terms and conditions as deemed to be in the best interest of the state. A copy of the contract shall be forwarded to the Department of Revenue, to the local governmental subdivision's tax authority, and the tax collecting officer or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:633 (April 2000).

§1515. Tax Incentives Available Under Contract

A. Tax exemptions may be granted for any of the following:

1. state corporate franchise tax;

2. state corporate income tax;
3. any other tax imposed directly by the state on the applicant.

B. The contract will not authorize the applicant to make tax-free purchases from vendors. Rebates of taxes paid may be granted for any of the following:

1. sales and use taxes imposed by the state or local governmental subdivisions on:

- a. machinery and equipment used by the applicant;
- b. materials and building supplies used in the repair, reconstruction, modification, or construction of a plant or facility;

c. a tax credit may be granted against the tax liability due to the state for the corporate income tax and the corporate franchise tax, provided however, that such credit shall not exceed the cost of purchase by the concern of machinery and scientific equipment used on the premises of the concern located in the park area;

d. materials and supplies necessary for or used in the manufacturing or assembly of the applicant's product, or delivery of services but not on goods or materials that become an integral part of the product or process;

e. any other goods and services used or consumed by the applicant's facility in the park.

C. State sales and use tax rebates shall be filed according to official Department of Revenue procedures.

D. Local sales and use tax rebates shall be filed in the manner prescribed by the local governmental subdivision taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:633 (April 2000).

§1516. Tax Relief Granted

A. The amount of state tax rebates and/or exemptions granted to a concern may be a maximum of 30 percent of the tax liability for state corporate franchise, income, and state sales and use taxes of the concern during the fiscal year preceding the fiscal year for which the rebates and/or exemptions are granted, or the amount established by contract. In the case of companies that have no prior fiscal year, the first fiscal year will be used.

B. The amount of the local governmental subdivision tax rebates granted to a concern may be a maximum of 100 percent of the tax liability for sales taxes due to that local governmental subdivision by the concern during the fiscal year preceding the fiscal year for which the rebates are granted, or the amount established by contract. In the case of companies that have no prior fiscal year, the first fiscal year will be used.

C. Companies are eligible to receive tax benefits, under this chapter, for only facilities located within the park.

D. Tax rebates are available for machinery and equipment when used inside the park by the applicant for research or in the manufacturing, assembly of a product, or delivery of a service. Machinery and equipment shall not be leased, rented, moved, or used, outside the physical premises of the concern receiving the tax benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:633 (April 2000).

§1517. Violations of Rules, Statutes, or Documents

On the initiative of the Board of Commerce and Industry or whenever a written complaint of violation of the terms of the rules, the contract documents or the statutes is received, the assistant secretary for the Office of Commerce and Industry shall cause to be made a full investigation on behalf of the board, and shall have full authority for such investigation including, but not exclusively, authority to call for reports or pertinent records or other information from the contractors. If the investigation substantiates a violation, the assistant secretary may present the subject contract to the board for formal cancellation. The businesses with contracts shall then remit any and all taxes that would have been imposed but for the issuance of a contract. If the contract is canceled, the Board of Commerce and Industry shall notify the Department of Revenue, the local governmental subdivision and the agency collecting the local taxes, of the cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:634 (April 2000).

§1518. Contract Renewals

The initial contract may be entered into for a period up to a maximum of five years under such terms and conditions the Board deems to be in the best interest of the state. Each contract may be renewed for a period of up to five years, provided that the total number of years of a contract shall not exceed ten years, the terms and conditions of which shall be deemed in the best interest of the state. Any renewal contract shall become effective only if the local governmental subdivision levying the tax approves of the renewal prior to the action by the Board of Commerce and Industry to renew the contract. The applicant shall receive and submit the approval of the local governmental subdivision to the Board of Commerce and Industry along with the request for a contract renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:634 (April 2000).

§1519. Annual Review

On February 15, of each year, the contractee shall file an affidavit with the Office of Commerce and Industry certifying that the business still qualifies under §905. If the affidavit shows the company no longer qualifies under this rule, the Board of Commerce and Industry shall cancel the contract and no further rebates or credits will be granted. The Department of Economic Development will notify the Department of Revenue within 30 days after revocation of a contract. On February 15, of each year, the contractee shall provide the Department of Economic Development with a copy of its most recent research and development report from the previous year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:634 (April 2000).

§1521. Appeals and Petition Procedures

A. Applicants who wish to appeal the action of the Board of Commerce and Industry must submit their appeals along with any necessary documentation to the Office of Commerce and Industry at least 30 days prior to the meeting of the screening committee of the Board of Commerce and Industry during which their appeals will be heard.

B. Petitions, and all documentation, on matters not yet presented to or ruled on, by the Board, must be submitted to the Board's staff at least 30 days prior to the meeting of the Board in which the petition will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:634 (April 2000).

§1525. Hearing Procedures

A. Applicants and/or their representatives will be notified of the date of the Board of Commerce and Industry meeting at which their application will be considered. The applicant should have a representative present who is able to answer any questions the Board of Commerce and Industry may have about the information contained in the application. In the event there is not a representative present, the application may be deferred.

B. The local governing authority of the political subdivision levying taxes within the park shall be notified of the date of the Board of Commerce and Industry meeting at which any application for benefits under this Program will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:634 (April 2000).

§1527. Contract Execution Procedures

A. When an application is approved, a contract is supplied to the applicant by the Office of Commerce and Industry. The applicant must execute the contract and return it within 30 days of receipt. Certified copies will then be forwarded to the proper local governmental taxing authority and to the Department of Revenue.

B. The taxing authorities of the local governmental subdivision issuing an endorsement resolution should be contacted by the applicant to determine their procedure for rebating their sales/use tax.

C. Applicants will be contacted by the staff of the Department of Revenue who will advise the proper procedures to follow in order to obtain the state sale/use tax rebate.

D. Notification of any change which may affect the contract should be made to the Office of Commerce and Industry. This includes any changes in the ownership or operational name of the firm holding a contract or the

abandonment of operation. Failure to report can constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Business Incentives LR 26:634 (April 2000).

R. Paul Adams
Director

0004#030

RULE

Board of Elementary and Secondary Education

Bulletin 741*℄* Louisiana Handbook for School Administrators*℄* Computer/Technology Education (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The amendment revises the title of the Computer Education secondary program of studies "Computer/Technology Education"; adds nine additional computer/technology electives to the Computer Education program of studies; and changes the title of Computer Literacy to "Computer/Technology Literacy."

Title 28

EDUCATION

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

§ 901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15); R.S. 17:7(5), (7), (11); R.S. 17:10, 11; R.S. 17:22(2), (6); R.S. 17:151.1; R.S. 17:151.3; R.S. 17:176; R.S. 17:232; R.S. 17:191.11; R.S. 17:1941; R.S. 17:2007; R.S. 17:2050; R.S. 17:2501-2507; P.L. 94-142; R.S. 17:154(1); R.S. 17:402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 24:1085 (June 1998), LR 26:635 (April 2000).

Bulletin 741*℄* Louisiana Handbook for School Administrators

2.105.02 Computer/technology education course offerings shall be as follows:

Course Title	Unit(s)
Computer Applications	1
Computer Architecture	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking I	1
Computer Systems and Networking II	1
Computer/Technology Literacy	½

Desktop Publishing	½
Digital Graphics & Animation	½
Multimedia Productions	1
Web Mastering	½
Independent Study in Technology Applications	1

Weegie Peabody
Executive Director

0004#013

RULE

Board of Elementary and Secondary Education

Bulletin 746*℄* Louisiana Standards for State Certification of School Personnel*℄* Admission Requirement for Alternate Post-Baccalaureate Certification Programs (LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The rule change revises the qualifications for entrance into an alternate post-baccalaureate certification program by deletion of the current requirement of a 2.5 Grade Point Average (GPA) on a 4.0 scale and addition of the required scores on the PRAXIS Pre-Professional Skills Tests in Reading, Writing, and Mathematics. The scores are those required for teacher certification: PPST-Reading: 172; PPST-Writing: 171; and PPST Mathematics: 170.

In response to Act 836 of the 1984 Louisiana Legislature, the Board of Regents adopted the recommendation of the Louisiana Council of Deans of Education that required scores on the NTE General Knowledge (644) and Communications Skills (645) tests be used as the standard for admission into teacher education programs. Since that time, those tests have been replaced by the PRAXIS tests indicated above; and they are now used as a standard for admission to traditional undergraduate teacher education programs.

Additionally, the current guidelines for alternate certification programs do not include a required GPA upon completion of the program. This rule includes the addition of a 2.5 GPA upon completion which is consistent with the requirement of the undergraduate teacher education programs.

Title 28

EDUCATION

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

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435,

541 (April, July, September, October, December 1975); amended LR 24:283 (February 1997); LR 24:1091 (June 1998); LR 25:422 (March 1999); LR 26:635 (April 2000).

Alternate Post-Baccalaureate Certification Program Elementary Education (Grades 1-8)

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution and must have achieved the required scores on the PRAXIS Pre-Professional Skills test in Reading (172), Writing (171), and Mathematics (170).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

a. The general education component of the candidate's baccalaureate degree must meet the state minimum requirements as specified in *Bulletin 746, Louisiana Standards for State Certification of School Personnel*.

2. Specialized Academic Education

a. The specialized academic education component of *Bulletin 746, Louisiana Standards for State Certification of School Personnel*, must be satisfied. A baccalaureate degree from a regionally accredited institution will satisfy six hours of the specialized academic education requirements of *Bulletin 746*.

3. Professional Education

a. Twenty-four semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education are required. The professional education component should include courses in theories of teaching and learning, student achievement and evaluation, human growth and development, methods of instruction, reading diagnosis and remediation, and exceptionalities of children or at-risk children.

4. Student Teaching

a. Candidates for certification must complete one of the following requirements:

i. student teaching;

or

ii. one-year internship in the area(s) of certification with supervision provided by the faculty in the college of education of a regionally accredited institution.

PRAXIS/NTE

a. The applicant must have attained scores on the PRAXIS/NTE (National Teacher Examinations) that meet state requirements for certification.

NOTE: Upon completion of the alternate program, the applicant must have earned a grade point average (GPA) of 2.5 (4.0 point scale)

No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In

addition, no final grade below a "C" will be accepted for any other course specified as a deficiency under this plan.

The State Department of Education, Office of Certification and Higher Education, has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Mandatory for individuals meeting certification requirements after August 31, 2000.

Alternate Post-Baccalaureate Certification Program Lower Elementary Education

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution and must have achieved the required scores on the PRAXIS Pre-Professional Skills test in Reading (172), Writing (171), and Mathematics (170).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

a. The general education component of the candidate's baccalaureate degree must meet the state minimum requirements as specified in *Bulletin 746, Louisiana Standards for State Certification of School Personnel*.

2. Specialized Academic Education

a. The specialized academic education component of *Bulletin 746, Louisiana Standards for State Certification of School Personnel*, must be satisfied. A baccalaureate degree from a regionally accredited institution will satisfy nine hours of the specialized academic education requirements of *Bulletin 746*.

3. Professional Education

a. Twenty-four semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education are required. The professional education component should include courses in theories of teaching and learning, student achievement and evaluation, human growth and development, methods of instruction, reading diagnosis and remediation, and exceptionalities of children or at-risk children.

4. Student Teaching

a. Candidates for certification must complete one of the following requirements:

i. Student teaching

or

ii. One-year internship in the area(s) of certification with supervision provided by the faculty in the college of education at a regionally accredited institution.

5. PRAXIS/NTE

a. The applicant must have attained scores on the PRAXIS/NTE (National Teacher Examinations) that meet state requirements for certification.

NOTE: Upon completion of the alternate program, the applicant must have earned a grade point average (GPA) of 2.5 (4.0 point scale)

No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In addition, no final grade below a "C" will be accepted for any other course specified as a deficiency under this plan.

The State Department of Education, Office of Certification and Higher Education, has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Alternate Post-Baccalaureate Certification Program Upper Elementary Education

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution and must have achieved the required scores on the PRAXIS Pre-Professional Skills test in Reading (172), Writing (171), and Mathematics (170).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

a. The general education component of the candidate's baccalaureate degree must meet the state minimum requirements as specified in *Bulletin 746, Louisiana Standards for State Certification of School Personnel*.

2. Specialized Academic Education

a. The specialized academic education component of *Bulletin 746, Louisiana Standards for State Certification of School Personnel*, must be satisfied. A baccalaureate degree from a regionally accredited institution will satisfy six hours of the specialized academic education requirements of *Bulletin 746*.

3. Professional Education

a. Twenty-one semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education are required. The professional education component should include courses in theories of teaching and learning, student achievement and evaluation, human growth and development, methods of instruction, and reading diagnosis and remediation.

4. Student Teaching

a. Candidates for certification must complete one of the following requirements:

i. Student teaching

or

ii. One-year internship in the area(s) of certification with supervision provided by the faculty in the college of education at a regionally accredited institution.

5. PRAXIS/NTE

a. The applicant must have attained scores on the PRAXIS/NTE (National Teacher Examinations) that meet state requirements for certification.

NOTE: Upon completion of the alternate program, the applicant must have earned a grade point average (GPA) of 2.5 (4.0 point scale).

No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In addition, no final grade below a "C" will be accepted for any other course specified as a deficiency under this plan.

The State Department of Education, Office of Certification and Higher Education, has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Alternate Post-Baccalaureate Certification Program Secondary

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution and must have achieved the required scores on the PRAXIS Pre-Professional Skills test in Reading (172), Writing (171), and Mathematics (170).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

a. A baccalaureate degree from a regionally accredited institution will fulfill the general education requirements.

2. Specialized Academic Education

a. The candidate must have a degree (major) in the area of certification or meet the state minimum requirements as specified in *Bulletin 746, Louisiana Standards for State Certification of School Personnel*.

3. Professional Education

a. Eighteen semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education are required. The professional education component should include courses in theories of teaching and learning, student achievement and evaluation, human growth and development, and methods of instruction.

4. Student Teaching

a. Candidates for certification must complete one of the following requirements:

i. Student teaching

or

ii. One-year internship in the area(s) of certification with supervision provided by the faculty in the college of education at a regionally accredited institution.

5. PRAXIS/NTE

a. The applicant must have attained scores on the PRAXIS/NTE (National Teacher Examinations) that meet state requirements for certification.

NOTE: Upon completion of the alternate program, the applicant must have earned a grade point average (GPA) of 2.5 (4.0 point scale).

No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In addition, no final grade below a "C" will be accepted for any other course specified as a deficiency under this plan.

The State Department of Education, Office of Certification and Higher Education, has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Alternate Post-Baccalaureate Certification

Program Special Education

The State Alternate Post-Baccalaureate Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Candidates for admission must have an earned baccalaureate degree from a regionally accredited institution and must have achieved the required scores on the PRAXIS Pre-Professional Skills test in Reading (172), Writing (171), and Mathematics (170).

Individuals seeking certification under this program must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program.

Certification requirements are as follows:

1. General Education

a. A baccalaureate degree from a regionally accredited institution will fulfill the general education requirements.

2. Specialized Academic Education

a. The candidate must have a degree (major) in the area of certification or meet the state minimum requirements as specified in *Bulletin 746, Louisiana Standards for State Certification of School Personnel*.

3. Professional Education

a. Eighteen semester hours of coursework in pedagogy (professional education) appropriate to the level of certification as prescribed by the school/department/college of education are required. The professional education component should include courses in theories of teaching and learning, student achievement and evaluation, human growth and development, and methods of instruction.

4. Student Teaching

a. Candidates for certification must complete one of the following requirements:

i. Student teaching

or

ii. One-year internship in the area(s) of certification with supervision provided by the faculty in the college of education at a regionally accredited institution.

5. PRAXIS/NTE

The applicant must have attained scores on the PRAXIS/NTE (National Teacher Examinations) that meet state requirements for certification.

NOTE: Upon completion of the alternate program, the applicant must have earned a grade point average (GPA) of 2.5 (4.0 point scale)

No final grade below a "C" will be accepted for student teaching or any professional or specialized academic education course which is required for certification. In addition, no final grade below a "C" will be accepted for any other course specified as a deficiency under this plan.

The State Department of Education, Office of Certification and Higher Education, has the authority to waive the student teaching upon verification of three years of successful teaching experience in the area of certification.

Weegie Peabody
Executive Director

0004#011

RULE

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel GPA for Entrance to Teacher Education Programs (LAC 28:1.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:1.903.A. The amendment revised the qualifications for entrance into a teacher education program relative to the applicant's grade point average. The required 2.20 average on a 4.00 scale no longer must be computed on the basis of "all course work attempted." This change will enable universities to delete in the computation of the GPA any course(s) which a student has repeated.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1997), LR 24:1091 (June 1998), LR 25:422-424 (March 1999), LR 26:638 (April 2000).

Bulletin 746: Teacher Certification Standards and Regulations

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Louisiana Revised Statute 17:7.1A (Act 756 of 1977) requires that (1) the applicant shall have attained a 2.20 average on a 4.00 scale as a condition for entrance into a teacher education program; and (2) the applicant shall have achieved a 2.50 average on a 4.00 scale at graduation from an approved program.

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Weegie Peabody
Executive Director

0004#012

RULE

Board of Elementary and Secondary Education

Bulletin 1213~~6~~ Minimum Standards for
School Buses~~6~~ Used School Buses
(LAC 28:XXV.303)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted a revision to Bulletin 1213 promulgated in LR 2:187 (June 1976), referenced in LAC 28:I.915.B, readopted in codified format, LR 25:643-653 (April, 1999). The amendment adds to the policies that govern the purchase of used school buses. The revision provides a process for the removal of older buses, taking into consideration the concerns of current school bus drivers (contractors) who may be required to buy a newer bus within a few years of retirement. The revision holds harmless those operators retiring within three years after the effective date of the rule, which is September 1, 2000.

Title 28

EDUCATION

Part XXV. Minimum Standards for School Buses

Chapter 3. General Provisions

§303. Used School Buses

A. - C. . . .

D. Replacement of school buses, at the time of purchase, must be ten (10) or fewer model years old for veteran owner/operator, school district and newly hired owner/operator. The number of years will be figured from the date of introduction of the model year. (Example, a 1988 model school bus is considered 10 model years old as of 1998.)

E. School buses used to transport students, including activity and backup buses, cannot be more than twenty-five years old.

F. Individual owners (Contractors) of school buses will be held harmless from the maximum age of school buses provision if the individual retires within three years after the effective date of the provisions.

G. This Provision becomes effective September 1, 2000, with the hold harmless provision expiring September 1, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158; R.S. 17:160-161; R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 25:644 (April 1999), amended LR 26:639 (April 2000).

Weegie Peabody
Executive Director

9912#042

RULE

Board of Secondary and Elementary Education

Bulletin 1706~~6~~ Regulations for Implementation
of the Children with Exceptionalities Act
(LAC 28:XLIII.Chapters 1-10)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, the Board of Elementary and Secondary Education adopted revisions to Bulletin 1706, the Regulations for Implementation of the Children with Exceptionalities Act (R.S. 1941 et seq.). This present revision is being published in codified form, hence historical notes will reflect a history, by section, from this time forward.

These regulations are necessary to implement changes made in the federal regulations for the Assistance to states for the Education of Children with Disabilities program under IDEA - Part B and C and changes made in the Louisiana Revised Statutes at R.S. 17:1941 et seq.

Title 28

EDUCATION

Part XLIII. Bulletin 1706~~6~~ Regulations for Students with Disabilities

Subpart A. Regulations for Students with Disabilities

(Editor's Note: Bulletin 1706 was adopted by the Board of Elementary and Secondary Education in LR 4:337 (September 1978) in an uncodified format, amended LR 7:407, 484, 625 (August, October, December 1981); LR 8:63, 323 (February, July 1982); LR 9:130, 549, 835, 836 (March, August, December 1983); LR 10:7 (January 1984); LR 11:252 (March 1985); LR 12:763 (November 1986); LR 14:11, 609 (January, September 1988); amended LR 16:297, 496 (April, June 1990); LR 17:956, 957 (October 1991); LR 18:310 1148 (April, November 1992); LR 19:171, 1131, 1416 (February, September, November 1993); LR 20:161 (February 1994); LR 21:550 (June 1995); LR 22:190 (March 1996); LR 24:283 (February 1998). This present revision is being published in codified form, hence historical notes will reflect a history by section from this time forward.)

Chapter 1. Responsibilities of the State Board of Elementary and Secondary Education

§101. Free Appropriate Public Education (FAPE)

A. The Louisiana State Board of Elementary and Secondary Education (the State Board) shall be responsible for the assurance of a free appropriate public education to all students with disabilities, ages three through twenty-one years, including students with disabilities who have been suspended or expelled from school and, at the discretion of the local educational agency (LEA) and with parental consent, to students with disabilities before age three years if their third birthday occurs during the school year; and it shall exercise supervision and control of public elementary and secondary education.

B. The State Board shall be directly responsible for the provision of a free appropriate public education to students with disabilities, ages three through twenty-one years, who are within the jurisdiction of either Special School District or in a State Board Special School (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center).

C. The state of Louisiana shall ensure the use of whatever state, local, federal, and private sources of support are available in the state to meet the requirements of these regulations. For example, if it is necessary to place a student with a disability in a residential facility, the state could use joint agreements among the agencies involved for sharing the cost of that placement.

1. Nothing in this requirement relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a student with a disability.

2. The State of Louisiana ensures that there is no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education and related services to the student has yet been determined.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:639 (April 2000).

§102. Issuance of Regulations

A. The State Board shall adopt, amend, or repeal rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to L.R.S.17:1942.1.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000).

§103. Compliance with Federal Rules

A. The State Board has not only the responsibility of complying with rules and regulations governing grants for educational purposes from the Federal government or from any other person or agency, which are not in contravention to the Constitution and laws, but also the authority to take all action necessary to achieve compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000).

§104. Approval of Private Schools

A. The State Board shall approve each participating private school that provides special education in accordance with standards established by the State Board.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000).

§105. Approval of IDEA - Part B Application

A. The State Board will review and approve the state application described in §330 of these Regulations before its submission to the U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000).

§106. Notification of LEA in Case of Ineligibility

A. The State Board shall provide a reasonable notice and an opportunity for a hearing according to procedures set out in Education Division General Administrative Regulations (EDGAR) at 34 CFR 76.401 before the State Department of Education (Department) disapproves any LEA application for federal entitlement funds for special education under IDEA - Part B or before the Department finds that an LEA is failing to comply with any requirements of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000).

§107. - 129. Reserved

§130. State Advisory Panel (Panel)

A. The Advisory Panel shall be appointed and approved by the State Board and shall be representative of the state population. Procedures shall follow existing State Board procedures for appointing such panels (councils).

B. Membership of the Panel will be composed of persons involved in or concerned with the education of students with disabilities and shall include at least one person representing each of the following groups. A majority of the members of the panel shall be individuals with disabilities or parents of students with disabilities.

1. Individuals with disabilities.
 2. Teachers.
 3. Representatives of private schools and public charter schools.
 4. Parents of students with disabilities.
 5. State and local education officials.
 6. Administrators of programs for students with disabilities.
 7. Representatives of other state agencies involved in the financing or delivery of related services to students with disabilities.
 8. Representatives from the state juvenile and adult corrections agencies.
 9. Representatives of institutions of higher education that prepare special education and related service personnel.
 10. At least one representative of a vocational, community, or business organization concerned with the provision of transition services to students with disabilities.
- C. The Panel shall perform prescribed duties in matters concerning the education of students with disabilities.
1. The Panel shall advise the State Board and the Department of unmet needs within the state in the education of students with disabilities.
 2. The Panel shall comment publicly on rules or regulations proposed by the State Board and the Department regarding the education of students with disabilities.
 3. The Panel shall assist the State Board and the Department in developing and reporting of data.
 4. The Panel shall advise the State Board and the Department in developing corrective action plans to address findings identified in federal monitoring reports.
 5. The Panel shall advise the State Board and the Department in developing and implementing policies related to the coordination of services for students with disabilities.
 6. The Panel shall advise the State Board and the Department on the education of eligible students with disabilities who have been convicted as adults and incarcerated in adult prisons.

7. The Panel shall consider items referred by the State Board as well as items initiated by the panel and approved by the Board through its regular procedures.

8. The Panel shall make recommendations regarding not only the disbursement of certain special education discretionary funds but also the procedures for distribution of funds under IDEA-Part B.

D. The Advisory Panel shall conduct its activities according to procedures prescribed by the State Board.

1. The Panel shall meet as often as necessary to conduct its business.

2. By July 1 of each year, the Panel shall submit an annual report of its activities, including its recommendations to the Department. This report shall be made available to the public in a manner consistent with other public reporting requirements of these Regulations.

3. Official minutes shall be kept on all Panel meetings and shall be made available to the public on request.

4. All Panel meetings and agenda items shall be announced in a timely manner in advance of the meeting to afford interested parties a reasonable opportunity to attend. Meetings shall be open to the public.

5. Interpreters and other necessary services shall be provided at Panel meetings for Panel members or participants. The State Board may pay for these services from funds under IDEA - Part B, State Administration.

6. The Panel shall serve without compensation, but the State Board shall reimburse the Panel members for reasonable and necessary expenses for attending meetings and performing duties. The State Board may use funds under IDEA - Part B, State Administration for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000).

Chapter 2. Responsibilities of the Superintendent of Public Elementary and Secondary Education and of the Department of Education

§201. General Responsibilities and Authorities

A. The State Superintendent of Public Elementary and Secondary Education (the Superintendent) and the State Department of Education shall administer those programs and policies necessary to implement R.S.17:1941 et seq. Responsibilities of the State Superintendent and the Department are listed below.

1. The Department shall approve, in accordance with standards approved by the State Board, each public school program that delivers special education.

2. The Department shall recommend to the State Board, in accordance with standards approved by the State Board, the approval of each participating private school program that delivers special education.

3. The Department shall receive, administer, and direct distribution of Federal funds for the education of students with disabilities, except those federal funds received directly by LEAs.

4. The Department shall recover any funds made available under IDEA-B for services to any student who has been determined to be classified erroneously as eligible to be counted as a student with a disability.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000).

§202. - 204. Reserved

§205. Preparation of Annual Budget

A. The Department shall prepare and submit to the State Board for review and approval for the next fiscal year a comprehensive budget that at a minimum proposes the appropriations by the Louisiana Legislature of whatever state funds are needed by the Department, Special School District, and LEAs to comply fully with all of the requirements established by the *Regulations for the Implementation of the Children with Exceptionalities Act* (with due regard to Federal maintenance of effort, nonsupplanting, commingling, comparability, and excess cost requirements).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000).

§206. Preparation of Reports

A. The Department shall prepare, publish and submit all reports as required under 34 CFR 300.139 and 300.750-755.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000).

§207. - 219. Reserved

§220. Personnel Standards

A. The Department shall develop, as needed, Louisiana standards for all personnel who provide special education, administrative, ancillary, pupil appraisal and related services to students with disabilities (birth through age 21) under Part B and Part C of IDEA.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000).

§221. - 229. Reserved

§230. Review of Enforcement Recommendations

A. The State Superintendent, after review of the recommendations from the Division of Special Populations, shall submit to the State Board at its next regularly scheduled meeting all recommendations of the Department to withhold state or Federal funds for special education or to take other necessary enforcement action in accordance with the procedures described in 34 CFR 76.401.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000).

§231. - 239. Reserved

§240. Impartial Hearing Officers

A. The Department and each LEA shall maintain a list of qualified and impartial hearing officers. The list shall include a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The Department shall ensure that these hearing officers have successfully completed an inservice training program approved by the Department and that they meet all other criteria established by the Department. Additional inservice training shall be provided by the Department whenever warranted by changes in applicable legal standards or educational practices.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000).

§241. - 250. Reserved

§251. Relationship Between Special Education and Competency-Based Education

A. No provision of the Louisiana Competency-Based Education Program shall be construed to interfere with the provision of a FAPE to students with disabilities under these Regulations (R.S.17:24.4(D)). All students with disabilities shall be included in the Louisiana Competency-Based Education Program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000).

§252. Louisiana Educational Assessment Program

A. Students with disabilities shall be included in the Louisiana Educational Assessment Program with appropriate accommodations and modifications in administration, if necessary, as documented in the students' IEPs.

B. Alternate assessments shall be provided for and administered to only those students with disabilities who meet specific eligibility criteria. A determination of whether any student meets the eligibility criteria shall be made by the student's IEP team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000).

§253. - 259. Reserved

§260. Full Educational Opportunity Goal

A. The Department shall ensure that all LEAs strive to meet the goal of providing full educational opportunity to all students with disabilities residing in the area served by the LEAs, by the year 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000).

§261. Program Options

A. The Department shall ensure that each LEA shall take steps to ensure that the students with disabilities residing in the area served by the LEA have available to them the variety of educational programs and services available to nondisabled students, including but not limited to art, music, industrial arts, consumer and homemaking education, and vocational education.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000).

§262. - 269. Reserved

§270. Interagency Agreements and Methods for Ensuring Services

A. The Department is authorized to enter into any agreement developed with another public or private agency, or agencies, which is in accordance with prescribed guidelines:

1. the agreement shall be consistent with Chapter 8 of these Regulations;
2. the agreement shall be essential to the achievement of full compliance with these Regulations;

3. the agreement shall be designed to achieve or accelerate the achievement of the full educational goal for all students with disabilities;

4. the agreement shall be necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the state;

5. the agreement shall be necessary to promote the successful transition of youths with disabilities into adult services and agencies.

B. The Department through the Governor shall ensure that an interagency agreement or other mechanism is in effect between each noneducational public agency to ensure a FAPE is provided, including the provision of these services during the pendency of disputes. The agreement shall include prescribed components:

1. an identification of or a method for defining the financial responsibility of each agency for providing services shall be provided;

2. conditions and terms of the reimbursement for which an LEA shall be reimbursed by other agencies shall be explained fully;

3. procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings) shall be delineated;

4. policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services shall be described in detail.

C. The requirements of this section may be met through only the legal documents that are listed below:

1. state statute or regulation;

2. signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

3. other appropriate written methods as determined by the Governor or designee.

D. The state shall have on file with the Secretary of Education at the U. S. Department of Education information to demonstrate that the requirements of this section have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000).

§271. Nondiscrimination

A. The Department shall, in the operation of programs funded by the IDEA, comply with all statutes and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability and age.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000).

§272. - 299. Reserved

Chapter 3. Responsibilities and Activities of the Division of Special Populations

§301. General Supervision

A. The Division of Special Populations (Division) is established within the Department to provide general supervision of all education programs for students with disabilities within the state, including all participating private school programs and all education programs administered by other state or local agencies. *General*

Supervision is defined as the responsibility to perform functions prescribed by the State Board.

1. The Division shall ensure that all necessary state standards for implementation of the IDEA are established. Any state standard affecting other state agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

2. The Division shall disseminate such standards and revisions to all public and private agencies bound by them and provide parents and all citizens with information requested regarding implementation of such state standards.

3. The Division shall provide technical assistance to all public and private agencies bound by such standards in their proper implementation.

4. The Division shall monitor according to written procedures the implementation of state standards in each public agency and in each participating private agency. Such monitoring shall include not only child identification, but also programmatic, administrative, and fiscal issues.

5. The Division shall institute a system for complaint management and investigation regarding the implementation of state standards.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000).

§302. Monitoring, Complaint Management and Investigation

A. The Division is authorized to establish a system of monitoring, complaint management, and investigatory provisions of these Regulations.

B. The Division shall monitor in accordance with the procedures established in the *Compliance Monitoring Procedures Handbook* all public and participating private schools and other education agencies for compliance with these and other applicable federal regulations, state statutes and standards.

C. The Division shall receive and review complaints concerning suspected noncompliance of regulations concerning the education of students with disabilities. It shall conduct this requirement through prescribed procedures.

1. The Division shall investigate allegations of failure to comply with any provision of these regulations and other applicable state or Federal laws, regulations or state standards.

2. The Division shall conduct hearings in accordance with provisions of IDEA and the *Louisiana Administrative Code*.

3. The Division, in carrying out its investigatory responsibilities, may require LEAs and participating private education agencies to keep certain records and submit to the Division complete and accurate reports at such time, in such form and containing such information as are determined necessary to enable the Division to fulfill its responsibilities for ensuring compliance.

D. The Division shall perform the following responsibilities prescribed below when students with disabilities are placed or referred by an LEA in a private school or facility.

1. The Division shall ensure that a student with a disability who is placed in or referred to a private school or facility by an LEA is provided special education and related

services in conformance with an IEP that meets the requirements of §440-446 of these Regulations; and at no cost to the parent, is provided an education that meets the standards that apply to education provided by the LEA; and has all rights of a student with a disability served by the LEA.

2. The Division shall monitor compliance of this subsection through written procedures; disseminate copies of applicable standards to each private school and facility to which a student with a disability has been referred or placed; and provide opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them.

E. The monitoring of least restrictive environment (LRE) requirements shall be a responsibility of the Division.

1. The Division shall carry out activities to ensure that the LRE requirements as found in §446 of these Regulations are implemented by each LEA. If there is evidence that an LEA has made placements that are inconsistent with §446, the Division shall review the LEA's justification of its actions and assist in planning and implementing any necessary corrective actions.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:643 (April 2000).

§303. Approval of Out of District Placement

A. The Division shall approve or disapprove each request made by an LEA to place or refer a student with a disability outside the geographic boundaries of that LEA unless the placement in another LEA is by mutual agreement of the two agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:643 (April 2000).

§304. - 328. Reserved

§329. State Eligibility under the Individuals with Disabilities Education Act

A. The Division shall prepare for submission to the State Board the state policies and procedures required under IDEA according to applicable Federal requirements for such policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:643 (April 2000).

§330. The State Policies and Procedures: Public Notice and Participation

A. In the preparation of the policies and procedures required by states under IDEA - Part B, the Division shall ensure that prescribed activities are performed.

1. The Division shall receive input from the State Advisory Panel regarding proposed changes in policies and procedures.

2. The Division shall submit proposed revisions of policies and procedures to the State Board of Elementary and Secondary Education for advertisement, and as appropriate, as a Notice of Intent in the Louisiana Register.

3. The Division shall publish in newspapers of general circulation throughout the state, other media, or both, the timetable for final approval, the procedures for submitting written comments, and a list of the dates, times and places of

public meetings to be held; the proposed policies and procedures shall be available for comment for at least forty-five calendar days following the date of the notice.

4. The Division shall distribute to interested parties and shall post the policies and procedures on the Department's official Internet Website for public comment for a period of at least forty-five calendar days.

5. The Division shall hold a series of open public meetings in which parents and other interested persons throughout the state are afforded a reasonable opportunity to comment on the proposed policies and procedures.

6. The Division shall review and consider all public comments that might warrant modification of the policies or procedures.

7. The Division shall attach a summary of the comments made during the public meetings or received by the State Board to the proposed final policies or procedures submitted to the State Board.

B. Upon approval, the Division shall distribute to interested parties and shall post the final policies and procedures on the Department's official Internet Website.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:643 (April 2000).

§331. - 339. Reserved

§340. Review and Approval of Annual Applications of LEAs

A. The Division shall establish submission requirements for eligibility for federal and/or state funds.

B. The Division, in concert with other Divisions within the Department, shall review each LEA's application to ensure that the use of funds is in compliance with all applicable Federal and state requirements. Written notice shall be provided to the agency within forty-five days of receipt of the application as to whether an application is or is not in substantially approvable form (and if not, the reason(s) shall be stated).

C. If the state educational agency determines that an LEA is not eligible under IDEA, the Department shall notify the LEA of that determination and shall provide such LEA with reasonable notice and an opportunity for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:644 (April 2000).

§341. Provisions for FAPE by the Department

A. When the Department does not distribute IDEA - Part B funds to an LEA in accordance with §230 and §373.B, the Division shall use those funds to ensure the provision of a free appropriate public education to students with disabilities residing in the area served by the LEA either directly, by contract, or through other arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:644 (April 2000).

§342. - 354. Reserved

§355. Confidentiality of Records

A. The Division shall comply with all of the requirements of §517 pertaining to confidentiality of personally identifiable information contained in educational records.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:644 (April 2000).

§356. Notification of Child Identification Effort

A. Notice of the child identification effort regularly undertaken by the Department and LEAs shall be published or announced in newspapers or other media with circulation adequate to notify parents throughout the state.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:644 (April 2000).

§357. Performance Goals and Indicators

A. The Division's goals for the performance of students with disabilities shall be consistent, to the maximum extent appropriate, with other goals and standards established by the state for all students.

B. The Division's performance indicators shall assess progress toward achieving the goals that, at a minimum, address the performance of students with disabilities on assessment, dropout rates, and graduation rates.

C. The Division shall report to the public every two years on the progress toward meeting the goals.

D. The Division shall revise its State Improvement Plan as needed to improve its performance.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:644 (April 2000).

§358. - 368. Reserved

§369. Personnel Standards

A. Personnel of state and local public and private educational agencies, including local agency providers, who deliver special education services (including instructional, appraisal, related, administrative, and support services) to children and youth with disabilities (birth through twenty-one) shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which the person is providing special education or related services.

1. The highest requirements in Louisiana applicable to a specific profession or discipline means the highest entry-level academic degree needed for any state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline.

2. Profession or discipline means a specific occupational category that provides special education or related services to students with disabilities under these regulations, that has been established or designated by the state, and that has a required scope of responsibility and degree of supervision.

3. State-approved or state-recognized certification, licensing, registration, or other comparable requirements means the requirements that a state legislature either has enacted or has authorized a state agency to promulgate through rules to establish the entry-level standards for employment in a specific profession of discipline in the state.

B. The Department shall have on file with the U.S. Secretary of Education policies and procedures relating to the establishment and maintenance of standards to ensure

that personnel necessary to carry out the purposes of these Regulations are appropriately and adequately prepared and trained. These policies and procedures shall be consistent with subsection A. above.

C. To the extent that the Department's standards for a profession or discipline, including standards for temporary or emergency certification, are not based on the highest requirements in the state applicable to a specific profession or discipline, the Department shall provide the steps and the procedures for notifying public agencies and personnel of those steps and the time lines it has established for the retraining or hiring of personnel to meet appropriate professional requirements in the state.

D. The Department shall determine, based on current information that accurately describes each profession or discipline in which personnel are providing special education or related services, whether the applicable standards in all state statutes are consistent with the highest requirements in the state for that profession or discipline. The determination shall be on file in the Department and available to the public.

E. Para-educators, paraprofessionals, and assistants who are appropriately trained and supervised in accordance with the state law, regulations, or written policy in meeting the requirements may be used to assist in the provision of special education and related services.

F. The Department shall require LEAs and other public and private agencies providing services to children and youth with disabilities to make an ongoing good faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services. In geographic areas of the state where there is a shortage of personnel that meet these qualifications, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet established standards may be hired as entry level personnel, consistent with state law, but shall attain appropriate certification credentials within three years.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:644 (April 2000).

§370. Comprehensive System of Personnel Development

A. The Department shall develop and implement a comprehensive system of personnel development that meets the requirements of a State Improvement Plan; that is designed to ensure an adequate supply of qualified special education, general education, and related services personnel, and early intervention service providers; and that meets the requirements of §371 and §372 below. The needs assessment for personnel development, under this section, shall be updated (at least) every five years.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:645 (April 2000).

§371. Adequate Supply of Qualified Personnel

A. The Department shall analyze state and local needs for professional development for personnel to serve students with disabilities:

1. the number of personnel providing special education and related services;

2. relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals with temporary certification); and

3. to the extent possible, the training or retraining necessary to eliminate the shortages based, to the maximum extent possible, on existing assessments of personnel needs.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:645 (April 2000).

§372. Improvement Strategies

A. The Department shall describe the strategies the state shall use to address the needs identified. The strategies will include how the state will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with students with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of students with disabilities. The plan will include a description of how the Department will accomplish this goal.

1. The Department shall prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of students with disabilities, including how the state will work with other states on common certification criteria.

2. The Department shall prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with special needs.

3. The Department shall work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with students with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet state and local needs.

4. The Department shall develop collaborative agreements with other states for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single state to justify support or development of such a program of preparation.

5. The Department shall work in collaboration with other states, particularly neighboring states, to address the lack of uniformity and reciprocity in credentialing of teachers and other personnel.

6. The Department shall enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of students with disabilities that impedes the learning of students with disabilities and others.

7. The Department shall acquire and disseminate to teachers, administrators, school board members, and related services personnel significant knowledge derived from educational research and other sources, and describe how the state will, if appropriate, adopt promising practices, materials, and technology.

8. The Department shall encourage LEAs to recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are under represented in the fields of regular education, special education, and related services.

9. The Department shall develop a plan that is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and state laws that address personnel recruitment and training.

10. The Department shall provide for the joint training of parents and special education, related services, and general education personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:645 (April 2000).

§373. Administration of Funds

A. The Division shall use any funds it retains in accordance with 34 CFR 300.602., 300.620-621., and 300.370.

B. The Division, in concert with other Divisions within the Department shall ensure the proper receipt and disbursement of all state and Federal funds administered by the Department specifically for the provision of special education and related services for students with disabilities. The Federal funds shall be distributed in accordance with 34 CFR 300.620-624. and at §106 of these regulations.

C. Funds shall not be distributed to an LEA in any fiscal year if the Department determines that the LEA has not complied with the state or Federal mandates concerning the education of students with disabilities. The reasons are listed below:

1. the LEA has not submitted an annual application that meets the requirements of §487 of these regulations; and/or

2. the LEA is unable to establish and maintain programs of free appropriate public education; and/or

3. the LEA is unable or unwilling to be consolidated with one or more LEAs in order to establish and maintain those programs; and/or

4. the LEA has one or more students who can best be served by a regional or state program or service delivery system designed to meet the needs of these students.

D. Fiscal review and compliance monitoring shall be conducted in accordance with the Compliance Monitoring Procedures and with auditing procedures established by the Department.

E. Determination of eligibility of students shall be accomplished through the verification procedures of the Department regarding the accuracy of the Child Count as detailed in §491. In order to verify the accuracy of each Count submitted, the Division will conduct prescribed activities.

1. The current Child Count from each LEA shall be compared with the previous count.

2. The current Child Count incidence figures from each LEA shall be compared with incidence figures from the previous State Child Count.

3. An on-site Child Count review shall be conducted in accordance with the *Compliance Monitoring Procedures*. If necessary, each system may be monitored for previous years to verify the accuracy of the Child Count. During fiscal monitoring of each LEA, the monitors will randomly select at least ten, but not more than twenty, cells from the Child Count report. For each cell, the LEA shall provide the student name, date of birth, evaluation report, IEP, class

rolls, and any other information that may be necessary to verify the accuracy of the Count.

4. Administrative on-site reviews shall be conducted in accordance with the *Compliance Monitoring Procedures*. Any multidisciplinary evaluation reviewed and found not to be in compliance with state guidelines, to the extent that it cannot be determined that the student is disabled, shall result in the exclusion of that student from the Child Count.

5. If a student's IEP is monitored during the on-site administrative review process and it is determined that the student has not been receiving all the special education and related services specified on the IEP, the student shall be excluded from Child Count.

6. The LEA shall be afforded an opportunity to present supportive or explanatory documentation to refute the Department and shall be formally accepted. If the evidence cannot justify the Count, the Count shall be disallowed.

F. If the LEA has received funds based on an erroneous Child Count and the Division has documented the extent of the error, the Department shall reduce the grant award if the error occurred in the current budget and all of the funds have not been expended or shall request that the LEA return such funds. Recovery of funds will follow the procedures in accordance with the *Compliance Monitoring Procedures*.

G. The monitoring of disproportionality shall be the responsibility of the Department.

1. The Division shall collect and analyze data to determine whether significant disproportionality based on race exists in the state with respect to a particular impairment and with respect to the placement in particular educational settings of these students.

2. When a significant disproportionality is determined, the Division shall provide for the review and, if necessary, the revision of its policies, procedures and practices or require the affected LEA to revise its policies, procedures and practices to ensure it complies with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:646 (April 2000).

§374. Nonbias of Testing and Evaluation Materials

A. The Division shall, with the approval of the SBESE, establish procedures as found in §434 to ensure that testing and evaluation materials used for evaluation and placement are free of racial, cultural, and/or sexual bias.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:646 (April 2000).

§375. Suspension and Expulsion Rates

A. The Division shall examine data to determine whether there are significant discrepancies in the rate of long-term suspensions and expulsions of students with disabilities among the LEAs and compared with the rates for nondisabled students within the LEAs.

B. If significant discrepancies are determined, the Division shall review and, if appropriate, revise its policies, procedures, and practices or require the affected LEA to revise its policies, procedures, and practices relating to the development and implementation of IEPs, the use of

behavioral interventions, and procedural safeguards to ensure they comply with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:646 (April 2000).

§376. - 399. Reserved

Chapter 4. Responsibilities of Local Educational Agencies

§401. Responsibilities of LEAs

A. Each LEA shall identify, locate, and evaluate each student suspected of having a disability (regardless of the severity of the disability), birth through twenty-one years of age, residing within its jurisdiction.

B. Each LEA is responsible for providing or causing to be provided a free appropriate public education to each eligible student with a disability, three through twenty-one years of age, who resides within its jurisdiction except those students enrolled by their parents in a private school program.

C. Free appropriate public education (FAPE) means special education and related services that are provided at public expense, under public supervision and direction, and without charge; that meet SBESE standards, including these Regulations and all applicable bulletins approved by the SBESE (i.e., *Bulletin 741*, *Bulletin 746*); that include preschool, elementary school, or secondary school education in the state; and that are provided in conformity with an individualized education program (IEP) that meet the requirements at §440-445.

1. Nothing in these Regulations shall relieve in any way an insurer, similar third party, or other public state or local agency from an otherwise valid obligation to provide or to pay for services to which a student with a disability is entitled as a client or beneficiary of such third party under state or Federal entitlement or laws or under policies or contracts. This regulation does not prohibit the use of insurance payments or private donations for use in the provision of a free appropriate public education as described in §497 of these Regulations.

2. Whatever state, local, Federal, and private sources of support are available may be used to provide a free appropriate public education, including the use of joint agreements between agencies for sharing the costs of those services.

3. Consistent with §440 and §443 of these Regulations, the LEA shall implement a student's IEP with no delay, including any case in which the payment source for providing or paying for special education and related services to the student has yet to be determined.

D. Jurisdiction is the right of an LEA to exercise authority over all students residing within its geographic area and over each student placed by the LEA in an educational program within the geographic area of another LEA or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school district as defined in the Louisiana Revised Statutes.

2. For SSD, the geographic area is the boundary of the state-operated treatment and care residential facilities.

3. For a State Board Special School, the geographic area is the boundary of the educational facility.

4. For a charter school that is considered an LEA, the geographic area is the boundary of the educational facility.

5. If there is a transfer of jurisdiction from one system to another for the provision of a free appropriate public education initiated by an LEA, this action is indicated by using the word "referral." According to these Regulations, such a referral culminates in the establishment of responsibility for a FAPE for the student by the receiving LEA. All transfers of jurisdiction are considered significant changes in placement.

6. If there is a placement of a student in another LEA or an approved private school, the student so placed remains within the jurisdiction of the placing LEA. The responsibility for a FAPE remains with the placing LEA and, in the case of placement in an approved private school or facility, also with the State Board.

E. Students who are eligible to receive a free appropriate public education are described below.

1. Free appropriate public education shall be available to all students with disabilities reaching the age of three years, regardless of when the birthday occurs during the school year; an IEP shall be in effect by that date. If a student's third birthday occurs during the summer, the student's IEP team shall determine the date when services under the IEP will begin. At the discretion of the LEA and with parental approval, a FAPE may be provided to an eligible student before age three years if his or her third birthday occurs during the school year.

2. A student with a disability shall remain eligible until reaching age twenty-two unless such student has graduated from high school with a regular high school diploma. A student with a disability whose twenty-second birthday occurs during the course of the regular school year (as defined by the LEA) shall be allowed to remain in school for the remainder of the school year.

3. Free appropriate public education shall be available to students expelled or suspended in accordance with §519.D. of these Regulations.

4. A student with a disability who needs special education and related services shall remain eligible, even though he or she is advancing from grade to grade.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:647 (April 2000).

§402. Reserved

§403. Students with Disabilities in Public Charter Schools

A. Students with disabilities who attend public charter schools and their parents shall retain all rights under these Regulations.

B. If the public charter school is an LEA, as defined in §904, and receives funding under §487, the charter school shall be responsible for ensuring that the requirements of these Regulations are met.

C. If the public charter school is a school of an LEA that receives funding under §487 and includes other public schools, the LEA shall be responsible for ensuring that the requirements of these Regulations are met. The LEA shall ensure it will serve students with disabilities attending these schools in the same manner as it serves students with disabilities in its other schools and shall provide funds under

the Regulations to these schools in the same manner as it provides those funds to its other schools.

D. If the public charter school is not an LEA receiving funding under §487 or is not a school that is part of an LEA receiving funding under §487, the Department shall be responsible for ensuring that the requirements of these Regulations are met by assigning initial responsibility for ensuring the requirements of these Regulations are met to another entity; however, the Department shall maintain the ultimate responsibility for ensuring compliance with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:647 (April 2000).

§404. Reserved

§405. Special Education and Early Intervention Services for Infants and Toddlers with Disabilities Less Than Three Years of Age

A. LEAs has the option of providing special education and early intervention services to infants and toddlers with disabilities who are from birth to three years of age. The ratios established in Chapter 10 shall be used for those programs serving infants and toddlers with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000).

§406. - 410. Reserved

§411. Child Search (Child Find) Activities

A. Each LEA, in accordance with the requirements of this subpart, shall document that the effort of ongoing identification activities is conducted to identify and locate each student who is under its jurisdiction, suspected of having a disability, in need of special education and related services, and meets the criteria listed below:

1. is enrolled in an educational program operated by an LEA;
2. is enrolled in a private school program;
3. is enrolled in a public or private preschool or day care program; or
4. is not enrolled in a school, except for students who have graduated with a regular high school.

B. On-going identification activities apply to highly mobile students with disabilities (such as migrant and homeless students) and to students who are suspected of having disabilities and in need of special education, even though they are advancing from grade to grade.

C. If, in the process of implementing these Regulations, any LEA locates a student who is suspected of being in need of treatment, care, or habilitation and rehabilitation, the LEA should request that the agency designated by the state to provide such assistance explore this suspected need with the parents.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000).

§412. Responsibilities of the Child-Search Coordinator

A. Each LEA shall designate an individual as a Child-Search Coordinator who shall be held accountable for certain responsibilities prescribed by the SBESE, as listed below.

1. The Child-Search Coordinator shall ensure that the progress of referrals and evaluation activities required by §411, §413-414, and §430-436 for each student suspected of having a disability is tracked and that the collection and use of data to meet these requirements are subject to the confidentiality requirements in §517 of these Regulations.

2. The Child-Search Coordinator shall ensure that the parent of each student initially identified as suspected of having a disability and in need of special educational services is provided a copy of all safeguards as defined in §504 of these Regulations. The parents shall also be afforded an opportunity for an explanation of these rights.

3. The Child-Search Coordinator shall ensure the activities assigned under IDEA - Part C are performed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000).

§413. Students in an Educational Program Operated by the LEA

A. An LEA shall identify a student as suspected of having a disability by the School Building Level Committee (SBLC). This committee shall coordinate and document the results, as appropriate, of educational screening, sensory screening, health screening, speech and language screening, or motor screening, and the results of the intervention efforts as defined in the *Pupil Appraisal Handbook*.

B. The SBLC, with the parent as an invited participant, shall review all screening results to reach a decision whether to refer the student to pupil appraisal for an individual evaluation. Parents shall be provided a report or summary by the SBLC on the status of the referral intervention at least once each grading period until a decision has been reached. If the parents disagree with the SBLC decision, the parents shall be provided a copy of their rights, which include a right to a due process hearing.

C. The SBLC's referral to pupil appraisal for an evaluation, which determines eligibility for services under IDEA, shall be made through the principal or designee for pupil appraisal services and shall include documentation of all screening activities. An immediate referral may be made to pupil appraisal services for an individual evaluation of any student suspected of a severe or low-incidence impairment or for whom there is substantial documentation that the student is likely to injure himself or others. Screening activities - such as educational, sensory, health, speech and language screening, and motor screening - should be completed as part of the evaluation for these students.

D. Within ten business days after receipt of the referral by the pupil appraisal office for an individual evaluation, pre-referral activities as listed in the *Pupil Appraisal Handbook* under "Initial Responsibilities of the Evaluation Coordinator" shall be conducted.

E. For an initial evaluation and the re-evaluation, the LEA shall obtain informed parental consent according to §505 of these Regulations. Receipt of parental consent for an individual evaluation by pupil appraisal begins the sixty business-day time line.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000).

§414. Child Find for Students in Private School Programs

A. Students enrolled in private school programs shall be identified, according to the procedures NOTE: d in §413 A. and §462.A., of these Regulations and shall be referred to the LEA Child Search Coordinator.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000).

§415. Students Out of School and/or Former Special Education Students Residing in the State

A. Students out of school, including students ages birth through five years who are suspected of having a disability and former special education students who have left a public school without completing their public education by obtaining a state diploma, shall be referred to the LEA Child Search Coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP based on their individual need following the enrollment process in §416 below. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five school days.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000).

§416. Students with a Documented Severe or Low-Incidence Impairment; Students Who May Be Transferring from Out of State; or Infants and Toddlers with Disabilities

A. Students who have a documented severe or low-incidence impairment documented by a qualified professional shall be initially enrolled in a special education program concurrent with the conduct of the evaluation according to the requirements of *Bulletin 1508*. This enrollment process, from the initial entry into the LEA to placement, shall occur within ten school days and shall include the steps, as listed below:

1. a review of all available evaluation information by pupil appraisal personnel;
2. approval by the school system's special education administrator;
3. the development of an interim IEP in accordance with §440-446;
4. informed parental consent for the interim placement;
5. the duration of the completion of the evaluation and the interim placement shall not exceed the evaluation time lines specified in §436, with the initial IEP/Placement document developed within thirty calendar days from the date of dissemination of the written evaluation report to the school system's special education administrator.

B. Students who have been receiving special education services in another state may be initially enrolled in a special education program, on an interim IEP, concurrent with the conduct of the evaluation according to the requirements of *Bulletin 1508*. The enrollment process shall be the same as in §416.A.

1. If no mutually agreeable placement can be determined, the LEA is not obligated to adopt the former IEP

or to provide the former services. Pending the resolution of the dispute, placement should be in regular education in accordance with the "stay-put" provisions at §514 of these Regulations.

C. Any infant or toddler who moves to Louisiana and who has an Individualized Family Service Plan (IFSP) shall be referred to the LEA that is responsible for assisting the family in identifying and accessing Family Service Coordination. During the conduct of the evaluation, which shall include a review of the existing evaluation, an interim IFSP may be developed to prevent a disruption in services. The enrollment process shall occur within ten school days from receipt of referral.

1. For toddlers transitioning from ChildNet/Part C programs to preschool special education programs, the LEA shall follow federally mandated time lines and procedures to ensure a smooth and effective transition between programs. The LEA is required to participate in transition planning conferences at least ninety days, and at the discretion of the parties, up to six months prior to the age the student is eligible for preschool special education services. The purpose of this conference is to discuss services the student may receive after his or her third birthday. The LEA shall have the multidisciplinary evaluation completed and the IEP developed for all eligible students for implementation by the student's third birthday to ensure the continuity of services.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000).

§417. Students with Disabilities Transferring from one LEA to another LEA Within Louisiana

A. Students who have been receiving special education in one LEA in Louisiana and who transfer to another LEA within Louisiana shall be enrolled in the appropriate special education program in the new LEA with the current IEP or the development of a review IEP within five school days of the transfer.

B. Infants and toddlers with disabilities who have an Individualized Family Service Plan (IFSP) and who receive services from an LEA and transfer to another LEA shall receive appropriate services from the LEA in which the children reside or shall be referred to a Family Service Coordinator to receive appropriate services.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000).

§418. Evaluation and Re-Evaluation

A. A full and individual evaluation shall be conducted for each student being considered for special education and related services under these Regulations to determine whether the student is a "student with a disability" as defined in these Regulations and to determine the educational needs of the student. The evaluation shall be conducted following the procedures in the *Pupil Appraisal Handbook*; and, if it is determined the student is a "student with a disability," the results of the evaluation shall be used by the student's IEP team.

B. A re-evaluation of each student with a disability shall be conducted following the procedures in *The Pupil Appraisal Handbook*; and the results of any re-evaluations

shall be addressed by the student's IEP team in reviewing and, as appropriate, revising the student's IEP.

C. Informed parental consent shall be obtained before conducting an evaluation or a re-evaluation according to prior notice and consent at §504 and §505 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000).

§419. - 429. Reserved

§430. Pupil Appraisal Personnel

A. LEAs shall regularly employ pupil appraisal personnel to conduct individual evaluations.

B. LEAs may, when necessary, use qualified examiners who are available from the Department of Health and Hospitals, the Department of Public Safety and Corrections, the State Board Special Schools, or other public agencies.

C. LEAs may, when necessary, contract with individuals or organizations to provide specialized assessments needed to provide a comprehensive individual evaluation of an identified student.

D. LEAs may, when necessary, use a combination of the approaches listed above.

E. Regardless of the approach used for conducting individual evaluations, LEAs retain full responsibility. Any failure by an employee or contractor to meet any requirements of this section shall constitute a failure by the LEA to comply with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000).

§431. Required Individual Evaluation

A. An initial evaluation shall be conducted whenever the student is not enrolled in special education and at least one of the following conditions exists.

1. Informed parental consent for the initial evaluation has been requested and received by the LEA. If a request was made for an evaluation during the time period in which the student is subject to disciplinary measures, the evaluation shall be conducted in an expedited manner as NOTE: d in §519.K.4.

2. A direct request for an individual evaluation of an enrolled student from sources other than the SBLC shall be routed through the SBLC for the collection of the required screening information and the conduct of the pre-referral procedures. If the LEA suspects that the student has a disability, an evaluation shall be conducted. If the LEA disagrees with the referral source and does not suspect that the student has a disability, it may refuse to conduct an evaluation. When the LEA refuses to initiate an evaluation upon parental request, the parent shall be provided a copy of all procedural safeguards, which include the right to a due process hearing.

3. A final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted.

4. A written request for an individual evaluation has been issued by a hearing officer or the State Level Review Panel.

B. An individual re-evaluation shall be conducted by the IEP Team and the evaluation coordinator if conditions warrant, but at least every three years whenever the student is enrolled in special education and at least one of the following occurs:

1. it is requested in writing by the student's teacher or by the LEA special education supervisor/director;

2. it is requested in writing by the student's parent(s);

3. a significant change in educational placement of a student is proposed by the LEA, the parent, or both;

4. a final written decision has been issued by a court of competent jurisdiction requiring that an individual re-evaluation be conducted; or

5. a student is suspected of no longer having a disability and no longer in need of services.

C. An LEA is not required to conduct a re-evaluation of students with disabilities who transfer with a current evaluation into its jurisdiction from another jurisdiction in Louisiana.

D. In the event a parent has privately obtained an independent educational evaluation, the LEA shall consider the individual evaluation in accordance with §503. of these Regulations.

E. Transitional needs shall be addressed as part of all evaluations occurring after the 14th birthday of a student with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000).

§432. Reserved

§433. Evaluation Coordination

A. Upon identification of a student suspected of having a disability, a qualified pupil appraisal staff member shall be designated as evaluation coordinator.

B. The evaluation coordinator shall ensure that the evaluation is conducted in accordance with all requirements in the *Pupil Appraisal Handbook* including the following: initial responsibilities following receipt of referral, selection of participating disciplines, procedural responsibilities, and mandated time lines.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000).

§434. Evaluation Process and Procedures

A. Individual evaluations shall be conducted according to the "Procedures for Evaluation" for each exceptionality as listed in the *Pupil Appraisal Handbook*.

B. The determination of a disability shall be based upon the "Criteria for Eligibility" established in the *Pupil Appraisal Handbook* before the initial delivery of special education and related services.

C. All evaluations shall be conducted according to the prescribed standards, as listed below.

1. Tests and other evaluation materials used to assess a student under these Regulations shall be selected and administered so as not to be discriminatory on a racial or cultural basis and shall be provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so.

2. Materials and procedures used to assess a student with limited English proficiency shall be selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills.

3. A variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the student, including information provided by the parent and information related to enabling the student to be involved in and progress in the general curriculum (or for a preschool student, to participate in appropriate activities). Such tools and strategies may assist in determining whether the student is a student with a disability and what content should be included in the student's IEP.

4. Any standardized tests that are given to a student shall have been validated for the specific purpose for which they are used and shall be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test or the method of test administration) shall be included in the evaluation report.

5. Tests and other evaluation materials shall include those tailored to assess specific areas of educational need, not merely those that are designed to provide a single general intelligence quotient. In no event shall IQ scores be reported or recorded in any individual student's evaluation report or cumulative folder.

6. Tests shall be selected and administered so as best to ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

7. No single procedure shall be used as the sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for the student.

8. The student shall be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

9. In evaluating each student with a disability according to established procedures, the evaluation shall be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified.

10. Technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors, shall be selected.

11. Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student shall be selected.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000).

§435. Determination of Eligibility and Placement

A. In interpreting evaluation data for the purpose of determining whether a student is a student with a disability and what are the educational needs of the student, the multidisciplinary team shall comply with prescribed procedures.

1. The team shall draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

2. The team shall ensure that information obtained from all of these sources has been documented and carefully considered.

B. Upon completing the administration of tests and other evaluation materials, the multidisciplinary team and the parent of the student shall determine whether the student is a student with a disability, as defined in these Regulations; and the LEA shall provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

C. A student may not be determined to be eligible under these Regulations, if the determinant factor for that eligibility determination is a lack of instruction in reading or mathematics or limited English proficiency; and the student does not otherwise meet the eligibility criteria.

D. If a determination has been made that a student has a disability and needs special education and related services, an IEP shall be developed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000).

§436. Time Lines

A. There shall be no more than ten business days from the date of receipt of the referral for an individual evaluation of an identified student by pupil appraisal to the date when the request is made for parental approval to conduct the individual evaluation.

B. Each individual evaluation shall be completed and the evaluation report disseminated within sixty business days of receipt of parental approval.

C. Extensions of evaluation time lines shall be justified as defined in the *Pupil Appraisal Handbook*.

D. The required triennial re-evaluation shall be completed on or before the third year anniversary date and shall include the activities noted in the *Pupil Appraisal Handbook*.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000).

§437. Determination of Needed Data for Re-Evaluations

A. In conducting re-evaluations under these Regulations, the IEP team and the evaluation coordinator shall comply with prescribed procedures as described below.

1. The team and the coordinator shall review existing evaluation data on the student, including evaluations and information provided by the parents of the student; current classroom-based assessments and observations; and

observations by teachers and related services providers (the team may conduct its review without a meeting).

2. On the basis of that review and on the input from the student's parents, the team and the coordinator shall identify what additional data, if any, are needed to determine:

- a. whether the student continues to have such a disability;
- b. the present levels of performance and educational needs of the student;
- c. whether the student continues to need special education and related services; and
- d. whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general curriculum.

3. The team and the coordinator shall determine what tests and other evaluation materials shall be administered, as needed, to produce the data identified in 2. above.

4. The LEA shall notify the student's parents, if the determination under 2. above is that no additional data are needed to determine whether the student continues to be a student with a disability of that determination and the reasons for it; and of the right of the parents to request an assessment to determine whether, for purposes of services under these Regulations, their child continues to be a student with a disability.

5. The LEA is not required to conduct the assessment described in 4. above unless requested to do so by the student's parents.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000).

§438. Evaluating Students with Specific Learning Disabilities

A. The procedures for evaluating a student suspected of having a specific learning disability including team members, criteria for eligibility, observation requirements, and the written report shall be conducted according to the *Pupil Appraisal Handbook*.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000).

§439. Reserved

§440. IEP/Placement Responsibilities

A. General Responsibilities for each LEA that develops and implements an IEP for each student with a disability served by that agency are described below.

1. Each LEA shall be responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability in accordance with all the requirements of this subpart and *Louisiana's IEP Handbook*.

2. LEAs shall include on each IEP all special education and related services necessary to accomplish comparability of educational opportunity between students with disabilities and students without disabilities.

3. The IEP shall be developed using a format approved by the Department.

4. The LEA shall provide a copy of each completed IEP/Placement document signed by the officially designated representative of the LEA at no cost to the student's parent(s).

5. At the beginning of each school year, each LEA shall have in effect an IEP for every student with a disability who is receiving special education and related services in that LEA.

6. When the student's IEP is in effect, it shall be accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation.

7. Each teacher and service provider shall be informed of his or her specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that shall be provided for the student in accordance with the IEP.

8. An IEP shall be developed and implemented for eligible students by their third birthday that is consistent with a FAPE.

B. Each LEA shall comply with the prescribed time lines as described below.

1. Each initial IEP/Placement document shall be completed within thirty calendar days from the date of dissemination of the written evaluation report to the special education director/supervisor.

2. Implementation of educational placement shall begin as soon as possible, but no later than ten calendar days following receipt by the LEA of formal parental approval.

C. IEPs shall be reviewed and revised following prescribed procedures described below.

1. Each LEA shall ensure each IEP/Placement review meeting is conducted at least annually.

2. Each LEA shall ensure that the team reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

3. Each LEA shall ensure the team revises the IEP, as appropriate, to address concerns in any areas NOTE: d in §444.

4. More than one IEP/Placement review meeting may be conducted at the discretion of the LEA. If a parent makes a written request for an IEP/Placement review meeting, the LEA shall respond in ten calendar days in writing to that request.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000).

§441. IEP Team Participants

A. Each LEA shall ensure that the IEP team for each student with a disability includes all of the required participants, as listed below:

1. one or both of the parents of the student;
2. at least one regular education teacher of the student (if the student is, or may be, participating in the regular education environment); the teacher shall to the extent appropriate, participate in the development, review and revision of the student's IEP, including:

- a. the determination of appropriate positive behavioral interventions and strategies for the student;

b. the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student; and

c. when a regular education teacher calls for a reconvening of the individualized education program team for any student with a disability assigned to his or her classroom on a full time basis in which the IEP requires an adjustment in the curriculum, instruction or services to be provided by the regular education teacher, this teacher shall participate on the IEP team and shall participate continuously thereafter for as long as the student is assigned to his or her classroom;

3. at least one special education teacher, or when appropriate, at least one special education provider of the student. For review IEP meetings, this participant should be a special education teacher of the student or a service provider of the student;

4. an officially designated representative of the LEA who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities; who is knowledgeable about the general curriculum; and who is knowledgeable about the availability of resources of the LEA. The LEA may designate another LEA member of the IEP team to serve also as the agency representative, if the above criteria are satisfied;

5. an individual who can interpret the instructional implications of evaluation results. This person may be a member of the team as described in 2, 3, 4, and 6. For the Re-evaluation/IEP meeting, the evaluation coordinator who conducted the activities for the re-evaluation of the student shall be present;

6. at the discretion of the parent or LEA, other individuals who have knowledge or special expertise regarding the student, including related service personnel as appropriate. The determination of the knowledge or special expertise of any individual shall be made by the parent or LEA who invited the individual to be a member of the IEP team;

7. if appropriate, the student;

a. The LEA shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of the student's transition service needs under §444.A.15.a., the needed transition services for the student under §444.A.15.b., or both.

b. If the student does not attend the IEP meeting involving transition planning, the LEA shall take other steps to ensure that the student's preferences and interests are considered.

c. Beginning at least one year before a student reaches the age of majority under state law, the student's IEP shall include a statement that the student has been informed of his or her rights under these Regulations, if any, that will transfer to the student on his or her reaching the age of majority, consistent with §518.

8. for LEAs planning transition services, a representative of any other agency that is likely to be responsible for providing or paying for transition services shall be invited. If an agency invited to send a representative to a meeting does not do so, the LEA shall take other steps to

obtain the participation of the other agency in the planning of any transition services.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000).

§442. Parent Participation

A. LEAs shall take steps to ensure that one or both of the parents of the student with a disability are present at each IEP/Placement meeting or are afforded an opportunity to participate. LEAs shall contact the parent(s) in writing regarding each meeting early enough to ensure that they will have an opportunity to attend and schedule the meeting at a mutually agreed upon time and place.

1. This notice shall indicate the purpose, time, and location of the meeting; it shall also indicate who shall be in attendance.

2. This notice shall inform the parents of the participation of other individuals on the IEP team who have knowledge or special expertise about the student.

B. For a student with a disability beginning at age fourteen, or younger, if appropriate, the notice shall indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student and indicate that the LEA will invite the student.

C. For a student with a disability beginning at age sixteen, or younger, if appropriate, the notice shall indicate that a purpose of the meeting is the consideration of needed transition services for the student and indicate that the LEA will invite the student; the notice shall also identify any other agency that will be invited to send a representative.

D. If neither parent can attend a scheduled IEP/Placement meeting for which arrangements have been made in accordance with these Regulations, other methods shall be used by the LEA to ensure parental participation, including making individual or conference telephone calls.

E. The meeting may be conducted without a parent in attendance providing that certain procedures are followed, as described below:

1. another method for parental participation is used and documented; or

2. the LEA has documented attempts to arrange a mutually agreed on time and place, such as:

a. detailed records of telephone calls made or attempted and the results of those calls;

b. copies of correspondence sent to the parents and any responses received; and/or

c. detailed records of visits to the parents' home or place of employment and the results of those visits.

F. The LEA shall take whatever action is necessary to ensure that the parents understand the proceedings at a meeting, including arranging for an interpreter for parent(s) who are deaf or whose native language is other than English.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:653 (April 2000).

§443. Parental Approval of IEP/Placement

A. When securing parental approval of the initial IEP/Placement document, prescribed procedures shall be followed, as described below.

1. Each LEA shall obtain informed parental consent prior to providing initial special education and related services. The IEP shall be considered in effect after the parent(s) provides formal written approval by signing the IEP/Placement document.

2. If the parent(s) withholds written approval of the educational placement, the LEA special education supervisor shall within ten business days either:

a. recommend a modified educational placement to which the parent(s) will provide approval; or

b. indicate to the parent(s) in writing that no placement modification will be made. In this case the student shall be maintained in the present placement or be offered placement in the LEA with approval of parent(s) until the matter is resolved.

3. The parent(s) may request a hearing in accordance with §507 of these Regulations in order to resolve any disagreement over the proposed IEP/Placement of the student.

4. If the LEA wishes to override the parental decision to withhold a formal written approval for the initial placement of the student in special education, the LEA may appeal to the appropriate state court within the time prescribed by state law.

B. In conducting a review of the IEP/Placement, the IEP team may make decisions without the involvement of the parents, when the LEA is unable to obtain the parents participation in the decision. In this case, the public agency shall have a record of its attempt to ensure their involvement, including information that is consistent with the requirements of §442.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:653 (April 2000).

§444. IEP Content and Format

A. Each completed IEP shall contain a general overview of the student's instructional needs. Required components are listed below:

1. the student's strengths and support needs;
2. the concerns of the parents for enhancing the education of their child;
3. the results of the initial evaluation and/or most recent re-evaluation of the student;
4. as appropriate, the results of the student's performance on any general state or district wide assessment program;
5. the student's present levels of educational performance, including:
 - a. how the student's disability affects the student's involvement and progress in the general curriculum; and
 - b. for preschool students, as appropriate, how the disability affects the student's participation in appropriate activities.

B. The IEP team shall also consider the following special factors and include, if needed, a statement addressing these issues on the IEP:

1. in the case of a student whose behaviors impede his or her learning or that of others, if appropriate, strategies including positive behavioral intervention strategies and supports to address that behavior;

2. in the case of a student with limited English proficiency, the language needs of the student as those needs relate to the student's IEP;

3. in the case of a student who is blind or visually impaired, instruction in Braille and the use of Braille unless the IEP team determines after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille) that instruction in Braille or the use of Braille is not appropriate for the student;

4. the communication needs of the student; and in the case of a student who is deaf or hard-of-hearing, not only the student's language and communication needs, but also the opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; the LEA shall ensure that hearing aids worn in school by students with hearing impairments, including deafness, are functioning properly;

5. whether the student requires assistive technology devices and services based on assessment/evaluation results; if it is determined that the student requires assistive technology devices or assistive technology services, or both, they shall be made available to the student with a disability as a part of the student's special education services, as a related service, or as supplementary aids and services; on a case-by-case basis, the use of school-purchased assistive technology devices in a student's home or in other settings is required if the student's IEP team determines that the student needs access to those devices in order to receive a FAPE; and

6. in the case of a student who has health problems, needs to be met during the school day: such medical conditions as asthma; diabetes; seizures; or other diseases/disorders that may require lifting and positioning, diapering, assistance with meals, special diets, or other health needs.

C. If in considering the special factors described in B.1-6. above, the IEP team determines that a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a FAPE, the IEP team shall include a statement to that effect in the student's IEP.

D. The IEP shall contain a statement of measurable annual goals, including benchmarks or short-term objectives, as listed below.

1. The statement shall relate to meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum.

2. The statement shall relate to meeting each of the student's other educational needs that result from the student's disability.

3. The statement shall relate to appropriate activities for the preschool-aged student.

E. The IEP shall contain a statement of the special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or

supports for school personnel that will be provided for the student to achieve the following as listed below:

1. to advance appropriately toward attaining the annual goals;

2. to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and

3. to be educated and participate with other students with disabilities and students without disabilities in the activities.

F. The IEP shall contain an explanation of the extent, if any, to which the student will not participate with students without disabilities in the regular class and extracurricular and other nonacademic activities.

G. The IEP shall contain a statement of any individual modifications and accommodations in the administration of the state or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment; and

1. if the IEP team determines that the student will not participate in a particular state or district wide assessment of student achievement (or part of an assessment), a statement of

i. why that assessment is not appropriate for the student; and

ii. how the student will be assessed.

H. The IEP shall contain the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications.

I. The IEP shall contain a statement of how the student's progress toward the annual goals will be measured.

J. The IEP shall contain the screening date(s) and criterion/criteria by which the student will be screened to determine extended school year program (ESYP) eligibility.

K. The IEP shall contain the type of physical education program to be provided for the student.

L. The IEP shall contain a statement of how the student's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled student's progress of

1. their child's progress toward the annual goals; and

2. the extent to which the progress is sufficient to enable the student to achieve goals by the end of the year.

M. For transition services, the IEP shall include the prescribed statements listed below.

1. For each student with a disability beginning at age fourteen and younger if appropriate, and updated annually, the IEP shall contain a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced-placement courses or a vocational education program).

2. For each student with a disability beginning at age sixteen (or younger, if determined appropriate by the IEP team), the IEP shall contain a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:654 (April 2000).

§445. IEP Accountability

A. The LEA shall provide special education and related services to a student with a disability in accordance with the student's IEP.

B. The LEA shall make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP.

C. Part B of IDEA does not require that any agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals, and objectives or benchmarks. However, IDEA does not prohibit a state or public agency from establishing its own accountability systems regarding teacher, school or agency performance.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:655 (April 2000).

§446. Least Restrictive Environment

A. For each educational placement of a student with a disability, including a preschool student with a disability, the LEA shall ensure that prescribed placement procedures are implemented.

1. Placement shall be determined at least annually by a group of persons (including the parents and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options).

2. Placement shall be based on an IEP/Placement Document.

3. The special education program in which each educational placement is made, including a private school or facility, shall meet the standards of the State Board.

4. A continuum of alternative educational placements shall be available to the extent necessary to implement the IEP/Placement document for each student with disabilities. Instruction may take place in other settings such as the community and job sites. At a minimum, this continuum shall include (in order of restrictiveness as it applies to each student) the following:

a. instruction in regular classes (Provisions shall be made for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement);

b. instruction in special classes;

c. special schools;

d. home instruction;

e. instruction in hospitals and institutions.

5. A student with a disability shall not be removed from education in age appropriate regular classrooms solely because of needed modifications in the general curriculum.

6. Special class, separate schooling, or other removal of students with disabilities from the regular educational environment shall occur only when the nature or intensity of the individual's needs is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Reasons for selecting a more restrictive environment may not be based solely on category of disability, severity of disability, availability of educational or related services, administrative convenience or special equipment.

7. To the maximum extent appropriate, any alternative placement selected for the student outside the general

educational setting shall provide opportunities for the student to interact with nondisabled peers.

8. Students with disabilities shall have available to them the variety of educational programs and activities available to nondisabled students in the area served by the LEA, including but not limited to art, music, industrial arts, consumer and homemaking education, and vocational education.

9. Nonacademic and extracurricular services and activities shall be provided in the manner necessary to afford students with disabilities an equal opportunity for participation in those services and activities; and may include counseling services, recreational activities, athletics, transportation, health services, special interest groups or clubs sponsored by the LEA, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the LEA and assistance in making outside employment available.

10. Physical education services, in accordance with the IEP/Placement document, shall be provided to students with disabilities in the regular physical education program or in the adapted physical education program as specified in §904.

11. The Least Restrictive Environment rules shall not be waived by any party, including the parent(s).

B. Each completed IEP shall contain prescribed placement components.

1. The IEP shall identify the specific educational environment in which the student is to be placed. This placement shall be the least restrictive educational environment, whether in existence or not, which can meet the student's individual educational needs, including necessary resources.

2. In making placement decisions, IEP committees shall first consider the regular/general education class with the use of supplemental aids and services.

a. If a regular/general education class is not chosen as the least restrictive environment, IEP teams shall examine each alternative placement (in order of restrictiveness) to determine appropriate placement.

b. If the placement decision is not instruction in regular class/setting, the IEP team shall provide justification for each setting rejected and the reasons or educational benefit for choosing the appropriate placement.

3. The four assurances listed below shall be provided when site determination decisions are made by the LEA.

a. The placement shall be in the school which the student would attend if not disabled unless the IEP of the student required some other arrangement. If the placement is not in the school the student would normally attend, the placement shall be as close as possible to the student's home.

b. The school and the class shall be chronologically age appropriate for the student. No student shall be placed in a setting that violates the maximal pupil/teacher ratio or the three-year chronological age span.

c. The school/setting selected shall be accessible to the student for all school activities.

d. If the placement is other than regular/general education, the classroom shall be comparable to and integrated with regular classes.

4. Any deviation from the four assurances above shall be documented and justified on the IEP. In selecting an

alternative placement, the LEA shall consider any potential harmful effect on the student with a disability or on the quality of services needed.

C. For the preschool-aged students with disabilities, three through five years of age, various alternative placements shall be available to the extent necessary to implement the IEP and for the student to receive these services in his or her LRE. Decisions regarding appropriate services shall be based on the individual needs of each student. The LEA shall make available center/school placements comparable in time to kindergarten age students if the student with a disability is kindergarten age. The frequency of services shall be flexible and dependent upon the needs of the individual student and family. The following placements, which do not reflect a continuum of least restrictive environment for the preschool aged student, should be considered:

1. instruction in the home;
2. instruction in a center/school;
 - a. regular preschool placement;
 - b. self-contained placement;
 - c. special school;
3. instruction in a hospital;
4. speech/language services only; or
5. adapted physical education only.

D. For infants and toddlers with special needs, birth through two years of age, who are receiving services through ChildNet, the Individualized Family Service Plan (IFSP) shall reflect early intervention services in the natural environment to the maximum extent appropriate. Early intervention services may be provided in a setting other than the natural environment only if early intervention cannot be achieved satisfactorily for the child in a natural environment. For these infants and toddlers with special needs, service delivery settings that are appropriate for the preschool-aged student shall be used.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:655 (April 2000).

§447. Extended School Year Services

A. *Extended school year programming (ESYP)* is the provision of special education and related services to students with disabilities in accordance with an IEP beyond the normal school year of the LEA.

B. LEAs shall provide educational and related services beyond the normal school year to students with disabilities when these students are determined to be in need of or eligible for such services for the provision of a FAPE. Student eligibility, which may not limit ESYP services to particular categories of disabilities, shall be determined in accordance with extended school year program eligibility criteria requirements in the *Extended School Year Program Handbook*.

C. The student's extended school year program is to be designed according to the standards in *Bulletin 1870/1871: Program Standards for Extended School Year Services*. The ESYP IEP team, in determining the duration, amount and type of extended school year services, shall not be bound or limited by any predetermined program or length. The extended school year services shall be determined by the IEP team on an individual basis for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:656 (April 2000).

§448. Change to Less Restrictive Environment

A. During each IEP review or revision, the educational placement of the student shall be changed to a less restrictive environment, unless the LEA documents that the educational needs indicated on the updated IEP/Placement document indicate that a change in educational placement would cause a reduction in quality of services needed or have a potentially harmful effect on the student.

B. *Significant change in educational placement* is defined as moving a student from one alternative setting to another that is more restrictive or which transfers jurisdiction; such a change requires a re-evaluation. A re-evaluation is not required to precede a placement change to a less restrictive environment occurring as a result of an IEP/Placement document.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:657 (April 2000).

§449. IEP Declassification Placement

A. When a re-evaluation indicates that a student with a disability currently enrolled in special education no longer meets all the criteria in the *Pupil Appraisal Handbook* for classification as a student with a disability, the LEA shall either:

1. place the student in regular education if the student is still eligible for regular education and refer the student to the School Building Level Committee to determine eligibility for appropriate accommodations or modifications under Section 504 of the Rehabilitation Act of 1973, as amended; or

2. recommend that the student be placed in an appropriate alternative placement for up to a one-year period of special education programming; the declassification program shall be provided in accordance with an IEP/Placement document and shall include a regular education membership using resource or itinerant services, if needed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:657 (April 2000).

§450. IEP Interim Placement

Refer to §416.

§451. Requirements for Placed or Referred Students with Disabilities

A. Before an LEA places, refers, or provides services to a student with a disability in another LEA, the LEA shall initiate and conduct a meeting to develop an IEP for the student in accordance with these Regulations.

1. In preparation for this IEP/Placement meeting, the LEA shall discuss with an authorized representative of the receiving LEA the following:

- a. the student's eligibility for admission;
- b. the education records necessary to determine eligibility for admission;
- c. the availability of services; and

- d. the likelihood of the student's being accepted by the system if the IEP/Placement meeting resulted in such a recommendation.

2. The LEA shall ensure that a representative of the other LEA attends the IEP/Placement meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the other LEA, including individual or conference telephone calls.

3. After conducting the IEP/Placement meeting, the LEA shall apply to the Division, in accordance with §451.B., for approval of placement out of the geographic attendance area of the LEA or for a transfer of jurisdiction. This procedure shall not be required when placement is in another LEA by mutual agreement.

4. For placement consideration which results in a referral to a State Board Special School, the proposed educational placement and supporting information shall be forwarded to the Division for its review and approval in accordance with §303 and a copy shall be forwarded to the appropriate State Board Special School for its review and agreement.

B. The Division, in determining whether to approve a request for referral or placement in an approved public or private day or residential school program located outside the geographic area of the LEA but within the state, will consider the following:

1. the short-term and long-term educational needs of the student;
2. the alternative educational placements available within the LEA or through a mutual agreement;
3. the potential for creating a new alternative educational placement within the LEA or by mutual agreement which would be less restrictive than the proposed placement; and
4. the proximity of the proposed placement to the residence of the student (e.g., greater metropolitan area).

C. The Division, in determining whether to approve a request for referral or for placement in an approved public or private day or residential school program located outside the state, in addition to considerations listed above, shall also consider the ability of the proposed educational program and facility to meet the minimum standards for special schools of Louisiana.

1. The private school shall be one approved by the SEA of the state in which it is located.

2. An on-site visit by Division personnel shall be conducted prior to placement.

3. The state in which the facility is located shall have an approved state plan for implementation of IDEA - Part B.

4. The public or private school shall provide necessary data to establish comparability of educational programs to similar programs operated in Louisiana.

D. If, during the review or revision of an IEP of a student, a change in placement in or a referral back to the placing or referring LEA is considered, a representative of both LEAs, in addition to other meeting participants required by §441, shall be involved in any decision about the student's IEP/Placement.

E. LEAs shall enroll students with disabilities currently enrolled in SSD or State Board Special Schools for provision

of special education and related services in the least restrictive environment when the student is placed by SSD or State Board Special Schools. Such a student with a disability shall remain in the jurisdiction of SSD or the State Board Special Schools, which shall reimburse the LEA for any costs for providing such services based on an interagency agreement. An LEA that disagrees with such a placement may, on an individual basis, apply to the State Board for exemption from the State Board from this obligation.

F. A LEA or SSD that places students with severe or low-incidence disabilities in State Board Special Schools shall reimburse State Board Special Schools for any costs for providing such services based on an interagency agreement. The LEA that retains jurisdiction shall retain fiscal responsibility for funds not available to the other system from the state.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:657 (April 2000).

§452. - 459. Reserved

§460. Students with Disabilities in Private Schools Placed or Referred by LEAs

A. Each LEA shall ensure that a student with a disability who is placed in or referred to a private school or facility by the LEA is provided special education and related services in conformance with an IEP that meets the requirements of §440 - 446 of these Regulations, at no cost to the parent, is provided an education that meets the standards that apply to education provided by the LEA; and has all rights of a student with a disability served by the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:658 (April 2000).

§461. Students With Disabilities Enrolled by Their Parents in Private Schools when FAPE is at Issue

A. An LEA shall not be required to pay for the cost of the education, including special education and related services, of a student with a disability enrolled at a private school or facility if that LEA made a FAPE available to the student and the parents elected to place the student in a private school or facility. The LEA shall include that student in the population whose needs are addressed in §462 of these Regulations.

B. Disagreements between a parent and the LEA regarding the availability of a program appropriate for the student and the question of financial responsibility are subject to the due process procedures in the §507 of these Regulations.

C. If the parent of a student with a disability, who previously received special education and related services from the LEA, enrolls the student in a private preschool, elementary, or secondary school without the consent of or referral by the LEA, a court or a hearing officer may require the LEA to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a FAPE available to the student in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or court, even if

the placement does not meet the state standards that apply to education provided by the LEA or the state.

D. The cost of reimbursement described in the above paragraph may be reduced or denied under certain circumstances:

1. if at the most recent IEP meeting that the parents attended prior to removal of the student from the LEA, the parents did not inform the IEP team that they were rejecting the placement proposed by the LEA to provide a FAPE to the student, including stating their concerns and their intent to enroll their child in a private school at public expense; or

2. if at least ten business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to the LEA of the information in paragraph D.1. above; or

3. if prior to the parents' removal of the student from the public school, the LEA informed the parents through the notice requirements described in §504 of these Regulations, of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or

4. if upon judicial findings of unreasonableness with respect to actions taken by the parents.

E. Notwithstanding the notice requirement in paragraph D.1. of this section, the cost of reimbursement may not be reduced or denied for failure to provide the notice if the parent is illiterate and cannot write in English, if compliance with paragraph D.1. of this section would likely result in physical or serious emotional harm to the student, if the school prevented the parent from providing the notice, or if the parents had not received notice pursuant to §504 of these Regulations regarding the notice requirement in paragraph D.1. of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:658 (April 2000).

§462. Students with Disabilities Enrolled by their Parents in Private Schools

A. As used in this section, *private school students* means students with disabilities enrolled by their parents in private school or facilities other than students with disabilities covered under §460. of these Regulations.

B. Private school students with disabilities shall be identified, located, and evaluated through prescribed procedures.

1. Each LEA shall locate, identify, and evaluate all private school students with disabilities, including religious-school students residing in the jurisdiction of the LEA. The activities undertaken to carry out this responsibility for private school students with disabilities shall be comparable to activities undertaken for students with disabilities in public schools.

2. Each LEA shall consult with appropriate representatives of private school students with disabilities on how to carry out the activities in paragraph B.1. above.

C. The provision of services to students with disabilities shall follow basic requirements.

1. To the extent consistent with their number and location in the state and within an LEA, provision shall be made for the participation of private school students with

disabilities in the program assisted or carried out under Part B of the IDEA by providing them with special education and related services in accordance with Subsections D. - L. below.

2. Each LEA shall develop and implement a service plan, using a format approved by the Division, in accordance with paragraph B.1. above and Subsections E. - G below, for each private school student with a disability who has been designated to receive special education and related service.

D. Expenditures for students with disabilities shall be determined by prescribed procedures.

1. To meet the provision of the service requirements of C.1. above, each LEA shall expend funds according to a prescribed formula.

a. For students aged three through twenty-one, the LEA shall fund an amount that is the same proportion of the LEA's total subgrant under section 611(g) of the IDEA as the number of private school students with disabilities aged three through twenty-one residing in its jurisdiction is to the total number of students with disabilities in its jurisdiction aged three through twenty-one.

b. For students aged three through five, the LEA shall fund an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the IDEA as the number of private school students with disabilities aged three through five residing in its jurisdiction is to the total number of students with disabilities in its jurisdiction aged three through five.

2. Child count shall follow prescribed procedures.

a. Each LEA shall consult with representatives of private school students regarding the annual child count of the number of private school students with disabilities and shall ensure that the count is conducted on December 1 of each year.

b. The child count shall be used to determine the amount that the LEA shall spend on providing special education and related services to private school students with disabilities in the next subsequent fiscal year.

3. Expenditures for child-find activities may not be considered in determining whether the LEA has met the requirements of §462.D. of this Subsection.

4. LEAs are not prohibited from providing services to private school students with disabilities in excess of those required by this section and consistent with state law or local policy.

E. In determining services to private school students with disabilities, the LEA shall ensure prescribed requirements as follows.

1. No private school student with a disability has an individual right to receive some or all of the special education and related services that the student would receive if he or she were enrolled in a public school. Decisions about the services that will be provided to private school students with disabilities shall be made in accordance with the consultative and service plan requirements listed below.

2. In determining services, the LEA shall under prescribed guidelines consult with representatives of private school students with disabilities.

a. Each LEA shall consult, in a timely and meaningful way, with appropriate representatives of private school students with disabilities in light of the funding under D. above, for the number of private school students with

disabilities, the needs of private school students with disabilities and their location to decide:

- i. which students will receive services;
 - ii. what services will be provided;
 - iii. how and where the services will be provided;
- and
- iv. how the services will be evaluated.

b. Each LEA shall give appropriate representatives of private school students with disabilities a genuine opportunity to express their views regarding each matter that is subject to the consultative requirements.

c. The consultation required shall occur before the LEA makes any decision that affects the opportunities of private school students with disabilities to participate in these services.

d. The LEA shall make the final decision with respect to the services to be provided to eligible private school students.

3. If a student with a disability is enrolled in a religious or other private school and will receive special education or related services from an LEA, the LEA shall:

a. initiate and conduct meetings to develop, review and revise a services plan for the student in accordance with Subsection F. below; and

b. ensure that a representative of the religious or other private school attends each meeting; if the representative cannot attend, the LEA shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

F. In providing services to students with disabilities, the LEA shall follow prescribed requirements.

1. Services provided to private school students with disabilities shall be provided by personnel meeting the same standards as personnel providing services in the public schools; private school students with disabilities may receive a different amount of service from students with disabilities in public schools; and no private school student with a disability is entitled to any service or to any amount of services that a student with disability would receive if enrolled in a public school.

2. Each private school student with a disability who has been designated to receive services shall have a service plan that describes the specific special education and related services the LEA will provide to the student in light of the services that the LEA has determined, through the consultative process, it will make available to private school students with disabilities. The service plan shall, to the extent appropriate, meet the IEP content requirements at §444. with respect to the services provided and be developed, reviewed, and revised consistent with IEP process procedures at §440 - 443.

G. In determining the location of services and transportation provisions, the following guidelines shall be followed.

1. Services provided to private school students with disabilities may be provided on-site at a student's private school, including a religious school to the extent consistent with law.

2. If necessary for the student to benefit from or participate in the services provided under this part, a private

school student with a disability shall be provided transportation:

a. from the student's school or the student's home to a site other than the private school; and

b. from the service site to the private school or to the student's home depending on the timing of the services.

3. The LEA is not required to provide transportation from the student's home to the private school.

4. The cost of the transportation described in G.2. above may be included in calculating whether the LEA has met the requirements of §462.D.

H. Complaints are limited to the conditions listed below.

1. The due process procedures in §507 of these Regulations do not apply to complaints that an LEA has failed to meet the requirements of §462. of these Regulations, including the provision of services on the student's service plan.

2. The due process procedures in §507 of these Regulations do apply to complaints that an LEA has failed to meet the child-find requirements, including the procedures for evaluation and determination of eligibility found at §411-438. of these Regulations.

3. Complaints that an LEA has failed to meet the requirements of §462. of these Regulations may be filed under the procedure in §506.A. of these Regulations.

I. An LEA may not use funds available under section 611 or 619 of the IDEA for classes that are organized separately on the basis of school enrollment or religion of the students if:

1. the classes are at the same site; and

2. the classes include students enrolled in public schools and students enrolled private schools.

J. The LEA shall ensure that funds do not benefit a private school by following these prescribed guidelines.

1. An LEA may not use funds provided under section 611 or 619 of the IDEA to finance the existing level of instruction in a private school or otherwise to benefit the private school.

2. An LEA shall use funds provided under Part B of the IDEA to meet the special education and related services needs of students enrolled in private schools, but not for the needs of a private school or for the general needs of the students enrolled in the private school.

K. The LEA may use funds available under sections 611 and 619 to pay for the use of public and private personnel under the following prescribed guidelines.

1. An LEA may use funds available under sections 611 and 619 of the IDEA to make public school personnel available in other than public facilities to the extent necessary to provide services for private school students with disabilities, if those services are not normally provided by the private school.

2. An LEA may use funds available under section 611 or 619 of the IDEA to pay for the services of an employee of a private school to provide services to private school students with disabilities if the employee performs the services outside of his or her regular hours of duty and if the employee performs the services under public supervision and control.

L. The LEA shall follow prescribed requirements concerning property, equipment, and supplies for the benefit of private school students with disabilities.

1. An LEA shall keep title to and exercise continuing administrative control of all property, equipment, and supplies that the LEA acquires with funds under section 611 or 619 of the IDEA for the benefit of private school students with disabilities.

2. The LEA may place equipment and supplies in a private school for the period of time needed for the program.

3. The LEA shall ensure that the equipment and supplies placed in a private school:

a. are used for only Part B purposes; and

b. can be removed from the private school without remodeling the private school facility.

4. The LEA shall remove equipment and supplies from a private school if

a. they are no longer needed for Part B purposes; or

b. removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

5. No funds under Part B of the IDEA may be used for repairs, minor remodeling, or construction of private school facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:658 (April 2000).

§463. Facility Accessibility

A. Facilities used by LEAs, directly or through contractual arrangement, shall be accessible to and usable by persons with disabilities. Architectural barriers shall not prevent a student with a disability from being educated in the least restrictive educational environment as defined in §446 of this Part.

B. New facilities or new parts of facilities shall be approved, designed, and constructed under prescribed conditions.

1. They may not be approved for construction unless and until the Department and the State Board give expressed written approval on the basis of a satisfactory showing by an LEA that adequate provision has been made for the necessary access of the students with disabilities.

2. They shall be designed and constructed in a manner that results in their being readily accessible to and usable by persons with disabilities.

3. They shall be constructed to at least meet the current level of accessibility provided by the Americans with Disabilities Act (ADA) Accessibility Guidelines for Building and Facilities.

C. Facilities that are altered for the use of LEAs shall be altered to the maximum extent feasible in a manner that results in the altered portion of the facility being readily accessible to and usable by persons with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:660 (April 2000).

§464. Program Accessibility

A. Program accessibility shall be ensured within existing facilities and accomplished through one of the following:

1. alteration of existing facilities; or

2. nonstructural changes: redesign of equipment; procurement of accessible educational technology; utilization of assistive technology; reassignment of classes or other services to accessible buildings; assignment of aides to

students; home visits; and delivery of health, welfare, or other social services at alternative accessible sites.

B. In choosing among available methods for meeting the program availability requirement, an LEA shall give priority to those methods that offer programs and activities to persons with disabilities in integrated settings.

C. Structural changes in facilities do not need to be made where other methods effectively ensure program accessibility; where structural changes are necessary, they shall be made as expeditiously as possible.

D. All nonstructural changes necessary to ensure program accessibility shall be made immediately or as expeditiously as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:660 (April 2000).

§465. Facility Comparability

A. Facilities identifiable as being for students with disabilities and the services and activities provided therein shall meet the same standards and level of quality as do facilities, services, and activities provided to other students.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§466. Day Care and Adult Services

A. LEAs that operate a preschool education or day care program or activity may not, on the basis of disability, exclude any students with disabilities and shall take into account the need(s) of such students in determining aids, benefits, or services to be provided under the program or activity.

B. LEAs that operate an adult education program or activity may not, on the basis of disability, exclude persons with disabilities and shall take into account the need(s) of these persons in determining aids, benefits, or services to be provided under the program or activity.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§467. - 469. Reserved

§470. Local Advisory Panel

A. A local advisory panel for the education of students with disabilities may be appointed by each LEA for the purpose of providing policy guidance with respect to special education and related services for students with disabilities in their school district, with the approval of its governing authority. Membership of the panel should appropriately represent the populations served.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§475. - 480. Reserved

§481. Appointment of a Supervisor/Director of Special Education

A. Each LEA shall employ a certified supervisor/director of special education on a full- or part-time basis.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§482. Personnel Standards

A. Personnel of local public and private educational agencies, including other local agency providers, who deliver special educational services (including instructional, appraisal, related, administrative, and support services) to students with disabilities (birth through age twenty-one) shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which a person is providing special education or related services. See §369 for more details.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§483. Comprehensive System of Personnel Development

A. LEAs shall have on file with the Department information to demonstrate that all personnel necessary to carry out these regulations within the jurisdiction of the agency are appropriately and adequately prepared, consistent with the requirements of §482 above.

B. To the extent the LEA determines appropriate, it shall contribute to and use the comprehensive system of personnel development of the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§484. - 485. Reserved

§486. Procedures for Determination of Eligibility for State or Federal Funds

A. Each LEA requesting state or Federal funds administered by the Department shall do so according to the procedures established by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§487. Annual Eligibility for IDEA - Part B Funds

A. Each LEA receiving assistance for the provision of education to students with disabilities within its jurisdiction shall have in effect policies, procedures, and programs that are consistent with the state's policies and procedures established pursuant to the Individuals with Disabilities Education Act (IDEA).

B. Each LEA shall have on file with the Department, policies and procedures that demonstrate compliance with the requirements of IDEA are consistent with state and Federal requirements.

C. Each LEA shall permit access by the staff of the Division during regular business hours of the LEA to any sources of information necessary to ascertain compliance with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§488. - 489. Reserved

§490. Maintenance of Special Education Student Data

A. Each LEA shall maintain and assure the accuracy of the required elements for each student record on the Louisiana Network of Special Education Records

(LANSER), the automated special education tracking system and on the Student Information System (SIS).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:661 (April 2000).

§491. Child Counting

A. Each LEA shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the Annual Child Count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each LEA/state agency shall determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B. It is the responsibility of the LEA/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program (IEP) or early intervention services, as stated on the Individualized Family Service Plan (IFSP).

C. If a student with a disability has more than one disability, the LEA shall adhere to the procedures prescribed below.

1. If a student has only two disabilities, deafness and blindness, and the student is not reported as having a developmental delay, that student shall be reported under the category "deaf-blindness".

2. A student who has more than one disability and who is not reported as having deaf-blindness or as having a developmental delay shall be reported under the category "multiple disabilities."

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:662 (April 2000).

§492. Reserved

§493. Use of IDEA - Part B Flow-through Funds

A. An LEA may only use IDEA - Part B funds for the excess cost of providing special education and related services for students with disabilities. The excess cost requirement prevents a LEA from using funds provided under IDEA - Part B to pay for all of the costs directly attributable to the education of a student with disabilities. However, the excess cost requirement does not prevent a LEA from using IDEA - Part B funds to pay for all of the cost directly attributable to the education of a student with disabilities in any of the ages of 3, 4, 5, 18, 19, 20, or 21 years, if no local or state funds are available for nondisabled students in that age range. However, the LEA shall comply with the non-supplanting and other requirements of this Part, providing the education and services. IDEA - Part B funds received shall not be commingled with state funds.

B. The LEA meets the excess cost requirement if it has spent at least at a minimum average amount determined under 34 CFR 300.184 for the education of each of its students with disabilities. This amount may not include capital outlay or debt service.

C. LEAs may not use IDEA - Part B funds to reduce the level of expenditures for the education of students with disabilities made by the LEA from local funds below the level of those expenditures for the preceding year. To determine whether that requirement is met, LEAs shall be able to demonstrate that the total amount, or average per

capita amount, of state and local school funds budgeted for expenditures in the current fiscal year for the education of students with disabilities is at least equal to the total amount, or average per capita amount, of state and local school funds actually expended for the education of students with disabilities in the most recent preceding fiscal year for which the information is available. An LEA may reduce the level of expenditures by the LEA under IDEA-Part B below the level of those expenditures for the preceding fiscal year if the reduction is attributable to the following prescribed factors.

1. Voluntary departure by retirement or otherwise, or departure for just cause of special education or related services personnel, who are replaced by qualified, lower-salaried staff. In order for an LEA to invoke this exception, the LEA shall ensure that those voluntary retirements or resignations and replacements are in full conformity with:

- a. existing school board policies in the agency;
- b. the applicable collective bargaining agreement in effect at that time; and
- c. applicable state statutes.

2. A decrease in the enrollment of students with disabilities.

3. The termination of the obligation of the LEA, consistent with this section, to provide a program of special education for a particular student with a disability that is an exceptionally costly program, as determined by the SEA, because the student:

- a. has left the jurisdiction of the LEA;
- b. has reached the age at which the obligation of the LEA to provide a FAPE to the student has terminated; or
- c. no longer needs the program of special education.

D. LEAs shall use state and local funds to provide services to students with disabilities receiving IDEA - Part B funds which, taken as a whole, are at least comparable with services provided to other students without disabilities.

E. LEAs shall maintain records that demonstrate compliance with the excess cost, nonsupplanting, and comparability requirements.

F. An LEA may use funds received under IDEA Part B for any fiscal year to carry out a school-wide program under section 1114 of the Elementary and Secondary Education Act of 1965 under the following conditions:

1. the amount used in any school-wide program may not exceed the amount received by the LEA under Part B for that fiscal year, divided by the number of students with disabilities in the jurisdiction of the LEA, and multiplied by the number of students with disabilities participating in the school wide program; and

2. the LEA shall ensure that all students with disabilities receive services in accordance with a properly developed IEP and are afforded all the rights and services guaranteed to students with disabilities under the IDEA.

G. An LEA may use funds received under IDEA Part B for the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a student with a disability in accordance with the student's IEP, even if one or more nondisabled students benefit from these services.

H. An LEA may not use more than 5 percent of the amount it receives under Part B of the IDEA for any fiscal year, in combination with other amounts (which shall include amounts other than education funds), to develop and

implement a coordinated services system designed to improve results for students and families, including students with disabilities and their families.

I. An LEA, through authority granted by the Department, may use funds made available under Part B of the IDEA to permit a public school within the jurisdiction of the LEA to design, implement, and evaluate a school-based improvement plan for a period not to exceed three years in accordance with 34 CFR 300.245-250.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:662 (April 2000).

§494. Obligation of Noneducational Public Agencies

A. If any public agency other than an educational agency is otherwise obligated under Federal or state law, or assigned responsibility under state policy to provide or pay for any services that are also considered special education or related services (such as relating to assistive technology devices/ services, related services, supplementary aids and services, or transition services) that are necessary for ensuring a FAPE to students with disabilities within the state, the public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

B. A noneducational public agency may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

C. If a public agency other than an educational agency fails to provide or pay for the special education and related services in A. above, the LEA shall provide or pay for these services to the student in a timely manner. The LEA may then claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency shall reimburse the LEA in accordance with the terms of the interagency agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:663 (April 2000).

§495. Interagency Coordination

A. Each LEA shall, upon request, assist the Department in the development and implementation of any interagency agreements designed to improve the delivery of special education and related services to students with disabilities.

B. Each LEA shall enter into interagency agreements in §830 to the extent necessary to comply with all provisions of these Regulations.

C. Each agreement shall be consistent with Chapter 8 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:663 (April 2000).

§496. Students with Disabilities Who are Covered by Public or Private Insurance

A. An LEA may use the public insurance benefits of a student with a disability who is covered by public insurance only under certain prescribed conditions.

1. A public agency may use the Medicaid or other public insurance benefits programs in which a student participates to provide or pay for services required under this part, as permitted under the public insurance program, except as provided in paragraph (A)(2) of this section.

2. With regard to services required to provide a FAPE to an eligible student under this part, the public agency:

a. may not require parents to sign up for or enroll in public insurance programs in order for their child to receive a FAPE under Part B of the IDEA;

b. may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but may pay the cost that the parent otherwise would be required to pay; and

c. may not use a student's benefits under a public insurance program if that use would:

i. decrease available lifetime coverage or any other insured benefit;

ii. result in the family's paying for services that would otherwise be covered by the public insurance program and that are required for the student outside of the time the student is in school;

iii. increase premiums or lead to the discontinuation of insurance; or

iv. risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

B. The LEA may use the private insurance benefits of a student with a disability who is covered by private insurance only under certain prescribed conditions.

1. With regard to services required to provide a FAPE to an eligible student under these regulations, a public agency may access a parent's private insurance proceeds only if the parent provides informed consent.

2. Each time the public agency proposes to access the parent's private insurance proceeds, it shall obtain parent consent and inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

C. Use of Part B Funds to pay for public or private insurance coverage is permissible under prescribed conditions.

1. If a public agency is unable to obtain parental consent to use the parent's private insurance or public insurance when the parent would incur a cost for a specified service to ensure a FAPE, the public agency may use its Part B funds to pay for the service.

2. To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the public agency may use its Part B funds to pay the cost the parents otherwise would have to pay (e.g., the deductible or co-pay amounts.)

D. Proceeds from public or private insurance shall be considered according to prescribed guidelines.

1. Proceeds from public or private insurance shall not be treated as program income for purposes of 34 CFR 80.25.

2. If a public agency spends reimbursements from Federal funds (e.g., Medicaid) for services under this part, those funds shall not be considered "state or local" funds for purposes of the maintenance of effort provisions.

E. Nothing in these requirements should be construed to alter the requirements imposed on a state Medicaid agency or on any other agency administering a public insurance program by Federal statute, regulations or policy under title

XIX, or title XXI of the Social Security Act, or any other public insurance program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:663 (April 2000).

§497. - 499. Reserved

Chapter 5. Procedural Safeguards

§501. General Responsibility

A. Each Local Educational Agency (LEA) shall establish and implement procedural safeguards that meet the requirements of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:664 (April 2000).

§502. Opportunity to Examine Records and Parent Participation in Meetings

A. Parents of a student with a disability shall be afforded, in accordance with §517.C. of these Regulations, an opportunity to inspect and review all educational records with respect to the identification, evaluation and educational placement of the student and with respect to the provision of a FAPE to the student.

B. Parents of a student with a disability shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation and educational placement of the student and the provision of a free appropriate public education to the student.

1. Each LEA shall provide notice consistent with §504 of these Regulations to ensure that parents of a student with a disability have the opportunity to participate in meetings described in paragraph 502.B. above.

2. A meeting does not include informal or unscheduled conversations involving LEA personnel and conversations on issues - such as teaching methodology, lesson plans, or coordination of service provision - if those issues are not addressed in the student's IEP. A meeting also does not include preparatory activities in which public agency personnel engage to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

3. Each LEA shall ensure that the parents of each student with a disability are members of any group that makes decisions on the educational placement of their child. (See §442 of these Regulations.)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:664 (April 2000).

§503. Independent Educational Evaluation

A. The parents of a student with a disability have a right to obtain an independent educational evaluation of the student subject to this section. The LEA shall provide to the parent, upon request for an IEE, information about where an independent educational evaluation may be obtained and the criteria by which it shall be conducted.

1. *Independent Educational Evaluation (IEE)* means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the student in question.

2. *Public Expense* means that the LEA either shall pay for the full cost of the evaluation or shall ensure that the evaluation is otherwise provided at no cost to the parent.

3. To avoid unreasonable charges for Independent Educational Evaluations (IEEs), an LEA may establish maximum allowable charges for specific tests. The maximum shall be established so that it allows parents to choose among the qualified professionals in the area and eliminates unreasonably excessive fees. The LEA shall allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's criteria.

B. An IEE is provided at public expense to the parents if:

1. the parent disagrees with an evaluation provided by the LEA; or

2. a hearing officer requests an IEE as part of a due process hearing.

C. When an LEA is notified in writing by the parent that the parent disagrees with the LEA's educational evaluation, the LEA has ten business days following the receipt of the notice to initiate a due process hearing to show that its evaluation is appropriate. If the LEA does not initiate a due process hearing within the ten business days, the IEE shall be at public expense.

1. The request for an IEE may be presented orally if the parent is illiterate in English or has a disability that prevents the production of a written statement.

2. If, in a due process hearing, the hearing officer finds that the LEA's evaluation is appropriate, the parent shall still have the right to an independent evaluation, but not at public expense.

3. If a parent requests an IEE, the LEA may ask for the parent's reasons why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the LEA may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the public evaluation.

D. An IEE obtained at public expense shall meet the same criteria established by these Regulations and by the *Pupil Appraisal Handbook*. The LEA may not impose conditions on obtaining an IEE, other than the criteria contained in the *Pupil Appraisal Handbook*.

E. If the parents obtain an IEE at private expense and it meets the criteria in the *Pupil Appraisal Handbook*, the results of the evaluation shall be considered by the LEA in any decision made with respect to the provision of a free appropriate public education to the student; and they may be presented as evidence at a hearing as described in §507 of these Regulations regarding the student.

F. The LEA is not required to use the IEE obtained at private expense as its only criteria for deciding the content of the student's special education program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:664 (April 2000).

§504. Prior Notice and Procedural Safeguard Notice

A. Written notice shall be given to the parents of a student with a disability a reasonable time before the LEA:

1. proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student; or

2. refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

B. The prior notice shall include prescribed information as listed below:

1. a description of the action proposed (or refused) by the school, an explanation of why the LEA proposes or refuses to take the action, and a description of any other options the LEA considered and reasons why those options were rejected;

2. a description of each evaluation procedure, test, record or report the LEA used as a basis for the proposed or refused action;

3. a description of any other factors that are relevant to the LEA's proposal or refusal;

4. a statement assuring that the parents of a student with a disability have protections under the procedural safeguards; and

5. sources for parents to contact to obtain assistance in understanding the provisions of the procedural safeguards.

C. The notice shall be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so; and

1. if the native language or other mode of communication of the parent is not a written language, the Department and the LEA shall take steps to ensure that:

a. the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

b. the parent understands the content of the notice;

c. the LEA shall maintain written evidence that the requirements of Paragraph C. of this Section have been met; and

D. notices scheduling Individualized Education Program (IEP) Team meetings shall contain not only a description of the purpose, date, time, and location of the meeting, but also a list of who will be in attendance.

E. If the notice relates to an action proposed by the LEA that also requires parental consent under §505 below, the LEA may give notice at the same time it requests parent consent.

F. Requirements for procedural safeguard notice are noted below.

1. A copy of the procedural safeguards (Louisiana's Educational Rights of Exceptional Children) shall be given to the parents of a student with a disability, at a minimum:

a. upon initial referral for evaluation;

b. upon each notification of an IEP meeting;

c. upon re-evaluation of the student; and

d. upon receipt of a request for a due process hearing.

2. The procedural safeguards notice shall include a full explanation of all procedural safeguards available under 34 C.F.R. 300.403, 300.500-300.529 and 300.560-300.577, including the state complaint procedures available in §506 of these Regulations.

3. The procedural safeguards notice shall meet the requirements of §504.C. of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:664 (April 2000).

§505. Parental Consent

A. Parental consent shall be obtained before the LEA conducts an initial evaluation or re-evaluation and before the LEA provides initial special education and related services to a student with a disability.

B. Consent for initial evaluation may not be construed as consent for initial placement described in A.2. above.

C. Parental consent is not required before the LEA reviews existing data as part of an evaluation or re-evaluation; or before the LEA administers a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

D. Whenever parental consent has been withheld, the LEA shall follow procedures to ensure a FAPE for the student.

1. If the parent's decision is to withhold consent for the initial evaluation or initial placement of the student in special education, the LEA may appeal to the appropriate state court. If the parent withholds consent for a re-evaluation, the LEA may request a due process hearing following the procedures outlined in §507 of these Regulations.

2. Each LEA shall establish and implement effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the student with a FAPE.

3. An LEA may not use a parent's refusal to consent to one service or activity to deny the parent or student any other service, benefit, or activity of the LEA except as required by these Regulations.

E. Informed parental consent need not be obtained for re-evaluation if the LEA can demonstrate through detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, detailed records of visits made to the parent's home or place of employment and the results of those visits, that it has taken reasonable measures to obtain that consent and that the student's parent has failed to respond.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:665 (April 2000).

§506. Complaint Management and Mediation

A. Complaint procedures are established in the *Complaint Management Procedures Handbook* to resolve disputes regarding educational decisions between an LEA and a parent.

1. Any individual or organization acting on behalf of a student with a disability shall have the right to file a complaint when it is believed that there exists a violation of state and/or federal law regarding the educational rights of a student with a disability.

2. Complaints may be filed in writing, by telephone or in person. The complaint shall involve a violation that occurred not more than one year prior to the date of filing unless a longer period is reasonable because the violation is continuing, or because the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint was received under this Section.

3. Upon receipt, the complaint shall be reviewed; the LEA shall then be notified in writing and asked to provide specific information regarding the complaint.

4. The complainant shall be given the opportunity to provide additional oral or written information during the course of the investigation.

5. All information relevant to the complaint shall be reviewed by the Department and a decision shall be made as to whether an on-site visit is needed. A determination shall be made as to whether the LEA is violating any requirements of applicable Federal or state statutes, regulations or standards.

6. Within 60 days of the receipt of the complaint, the Department shall issue not only a letter of findings to the complainant and to the LEA on each of the allegations of the complaint but also the reasons for the Department's decision.

7. The Department shall ensure effective implementation of the final decision through technical assistance, negotiations and corrective actions that achieve compliance. In resolving a complaint in which it has found a failure to provide appropriate services, the Department shall address how to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the student and appropriate future provision of services for all students with disabilities.

8. The Department shall allow for extensions of the 60 day time lines only if exceptional circumstances exist.

9. If a complaint received is the subject of a due process hearing or if it contains multiple issues, of which one or more is part of the hearing, the Department shall set aside any part of the complaint that is being addressed in the hearing until the conclusion of the hearing. Any issue of the complaint that is not a part of the hearing action shall be resolved, using the time limit and procedures above.

10. If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision shall be binding and the Department shall inform the complainant to that effect.

11. A complaint alleging an LEA's failure to implement a due process decision shall be resolved by the Department.

B. Mediation process procedures shall be available to parents and the LEA personnel to allow them to resolve disputes involving any matter described in §504.A 1.and 2. At a minimum, mediation shall be offered whenever a due process hearing is requested under §507 and §519 I. and L. of these Regulations.

1. Mediation, which is voluntary on the part of both parties, shall be conducted by a qualified and impartial mediator trained in effective mediation techniques and assigned by the Department.

2. Mediation shall not be used to deny or delay a parent's right to a due process hearing or to deny any other rights.

3. The Department shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

4. The impartial mediator may not be an employee of any LEA or state agency that is providing direct services to the student. The mediator shall not have a personal or professional conflict of interest. A person who otherwise

qualifies as a mediator shall not be considered an employee of an LEA solely because he or she is paid by the agency to serve as a mediator.

5. The Department shall bear the cost of the mediation process.

6. The mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

7. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

8. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:665 (April 2000).

§507. Impartial Due Process Hearing

A. A parent or LEA may initiate a hearing on any of the matters described in §504 A. 1 and 2. A parent initiates a hearing by sending written notice to the LEA. The LEA initiates a hearing by sending written notice to the parent and to the Department. When a hearing has been initiated, the LEA shall inform the parents of the availability of mediation.

1. The written notice to the LEA for a due process hearing shall include the student's name and address, the name of the school the student is attending, a description of the nature of the problem, and a proposed resolution of the problem to the extent known and available to the person requesting the hearing.

2. The request for a due process hearing may be presented orally if the parent is illiterate in English or has a disability that prevents the production of a written statement.

3. An LEA may not deny or delay a parent's right to a due process hearing for failure to provide the required notice described above.

B. Any party to a hearing has the following rights as described below.

1. The hearing shall be conducted at a time and place convenient to the parent, the student and the LEA.

2. Any party shall have the right to be accompanied and advised by counsel or by individuals with special knowledge or training with respect to the problems of exceptional students.

3. Any party to the hearing shall have the right to present evidence and to confront, cross-examine, and compel the attendance of witnesses.

4. Any party to the hearing shall have the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

5. At least five business days prior to a hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluation that the party intends to use at the hearing.

6. The hearing officer may bar any party that fails to comply with the above requirement from introducing the

relevant evaluation or recommendations at the hearing without the consent of the other party.

7. Any party shall have the right to obtain a written or electronic, at the option of the parent, verbatim record of the hearing at no cost.

8. Any party to the hearing shall have the right to obtain written or, at the option of the parent, electronic findings of fact and decisions at no cost.

C. A parent involved in a hearing shall have the right to:

1. have the student who is the subject of the hearing present;

2. have the hearing open to the public;

3. be informed, upon request, of any free or low-cost legal and other relevant services when either the parent or LEA initiates a due process hearing; and

4. be informed that, if the parent prevails in a due process hearing, the parent may be able to recover attorney fees.

D. The Department, after deleting any personally identifiable information, shall annually transmit those findings and decisions to the State Advisory Panel established under these Regulations; and shall upon request, make those findings and decisions available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:666 (April 2000).

§508. Hearing Officer Appointment and Hearing Procedures

A. The hearing officer appointed shall be in compliance with requirements stipulated below.

1. A hearing officer shall be an impartial person knowledgeable about the legal and educational issues involved in assessing compliance with these Regulations.

a. A hearing officer may not be an employee of a public agency that is involved in the education or care of the student. A person who otherwise qualifies to conduct a hearing under this section is not an employee of the public agency solely because he or she is paid by the agency to serve as a hearing officer.

b. No person who has a personal or professional interest that would conflict with his or her objectivity may be appointed to serve as a hearing officer.

2. The Department and each LEA shall maintain the list of qualified hearing officers. The list shall include a statement of the qualifications of each of the hearing officers and, to the extent possible, include representation from all regions of the state. The Department shall ensure that these hearing officers have successfully completed an inservice training program approved by the Department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

3. Appointments which shall be for a period of three years, may be renewed. The Department shall annually review the activities of persons on the list and shall remove persons from the list if they leave the state, decline to participate actively in the hearing process, cease to be impartial, or do not carry out their responsibilities in a satisfactory fashion.

B. Hearing procedures shall include the designating of a hearing officer as stipulated below.

1. The local special education administrator shall notify the Department of the need to assign a hearing officer within one day of receipt of a request for a hearing.

2. The hearing officer shall be assigned within five days by the Department on a rotational basis from the Department's list of certified hearing officers. Consideration will be given to the location of the hearing when making the assignment.

3. After a hearing officer has been assigned, the Department shall provide both the complainant and the local special education supervisor a written notice of the name of the hearing officer. The written notices shall be delivered by certified mail.

4. If the parent or LEA has reasonable doubt regarding the impartiality of a hearing officer, written information shall be submitted to the Department within three days of receipt of the notice of the assigned hearing officer.

5. The Department shall review any written challenge and provide a written decision and notice to the parent and LEA within three days after receipt of the written challenge.

6. If the Department determines that doubt exists as to whether the proposed hearing officer is truly impartial, another hearing officer shall be immediately assigned.

C. Procedures for conducting a hearing are stipulated below.

1. The hearing officer shall contact all parties to schedule the hearing and then shall notify in writing all parties and the Department of the date, time and place of the hearing.

2. The hearing shall be conducted in accordance with guidelines developed by the Department.

3. At the request of either party, the hearing officer shall have the authority to subpoena persons to appear at the hearing.

4. A final hearing decision shall be reached and a copy of the decision mailed to each party not later than 45 days after the receipt of the request for the hearing.

5. A hearing officer may grant specific extensions of time beyond the prescribed time requirements at the request of either party. When an extension is granted, the hearing officer shall, on the day the decision is made to grant the extension, notify all parties and the Department in writing, stating the date, time, and location of the rescheduled hearing.

6. A decision made by the hearing officer shall be final unless an appeal is made by either party.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:667 (April 2000).

§509. Appeal of the Hearing Decision

A. Any party aggrieved by the findings and decisions of the hearing may appeal the hearing decision.

B. A written request to review the hearing decision shall be sent by certified mail to the Department within 15 days of receipt of the hearing decision. The request shall state the basis upon which the review is requested.

C. The Department shall notify all parties of the request and activate the State Level Review Panel.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:667 (April 2000).

§510. The State Level Review Panel

A. The State Level Review Panel shall be composed of three hearing officers trained by the Department in special education law and due process procedures.

B. State Level Review Panel Members may not be employees of the state agency or LEA responsible for the education or care of the student. They shall not have participated in the due process hearing being appealed nor have a personal or professional interest that would conflict with his or her objectivity.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000).

§511. Appeal to the State Level Review Panel

A. In conducting the appeal, the Panel shall issue a decision within 30 days from receipt of the request for an appeal.

1. The Panel shall examine the entire hearing record.

2. The Panel shall ensure that procedures were consistent with the requirements of due process.

3. The Panel shall seek additional evidence if necessary. If a hearing is held to receive additional evidence, hearing rights stated in §507.A and B of these Regulations are applicable.

4. The Panel shall afford all parties an opportunity for oral or written argument, or both, at the discretion of the reviewing panel. Any written argument(s) shall be submitted to all parties.

5. The Panel shall make a final decision upon completion of the review.

B. In conducting the appeal, the Panel shall provide copies of its written findings and decision to all parties.

C. The Department, after deleting any personally identifiable information, shall annually, transmit those findings and decisions to the State Advisory Panel established under these Regulations; and shall upon request, make those findings and decisions available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000).

§512. Appeal to State or Federal Court

A. Any party aggrieved by the decision and the finding of the State Level Review Panel has the right to bring a civil action in state or Federal court. The civil action shall be filed in state court within thirty (30) days of the decision. This time line does not apply to Federal court. Refer to 34 CFR 300.512 for additional information on this topic.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000).

§513. Reserved

§514. Student Status During Proceedings

A. During the pendency of any administrative or judicial proceeding regarding due process, the student involved shall remain in the current educational placement unless the parent and the LEA agree otherwise.

B. If the hearing involves an application for initial admission to a public school, the student, with the consent of

the parents, shall be placed in the public school program of the LEA until the completion of all the proceedings.

C. If the decision of a State Level Review Panel, as described in §510, in an administrative appeal agrees with the parent that a change of placement is appropriate, that placement shall be treated as an agreement between the state or the LEA and the parents for the purposes of A. above.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000).

§515. Costs

A. LEAs shall be responsible for paying administrative costs or reasonable expenses related to participation of LEA personnel in a hearing or appeal. The expenses of the hearing officer, the review panel, and stenographic services shall be paid by the Department in accordance with its policies and procedures.

B. The awarding and funding of attorneys' fees may be provided under the following stipulations.

1. In any action or proceeding brought under Section 615 of IDEA, the courts, in its discretion, may award reasonable attorneys' fees as part of the costs to the parent of a student with a disability who is a prevailing party.

2. Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to an action or proceeding under section 615(Procedural Safeguards) of the IDEA. This stipulation does not preclude the Department from using funds under Part B of the IDEA for conducting an action or proceeding under section 615 of the IDEA.

3. The court may award reasonable attorneys' fees under section 615 of the IDEA consistent with 34 CFR 300.513 (c) (1)-(5).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000).

§516. Surrogate Parents

A. An LEA shall ensure that the rights of a student are protected if no parent (as defined in §904) can be identified; the LEA, after reasonable efforts, cannot discover the whereabouts of a parent; or the student is a ward of the state (including a ward of the court or of a state agency).

B. A surrogate parent may represent the student in all matters relating to the identification, evaluation, and educational placement of the student and the provision of a free appropriate public education.

C. A method for determining whether a student needs a surrogate parent and for assigning a surrogate parent shall be developed and implemented by each LEA.

1. A person assigned as a surrogate parent shall have no interest that conflicts with the interests of the student and shall not be an employee of the Department, the LEA, or any agency involved in the education or care of the student.

2. The person assigned shall have knowledge and skills that ensure adequate representation of the student.

D. An LEA may select as a surrogate a person who is an employee of a private agency that provides only noneducational care for the student and who meets the standards in C. above.

E. Payment of fees for service as a surrogate parent does not, in and of itself, render a person an employee of the LEA.

F. Any person appointed as a surrogate parent shall be protected by the "limited liability" of R.S. 17:1958.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000).

§517. Confidentiality of Information

A. The Department shall have established policies and procedures for the implementation of the confidentiality requirements under IDEA-Part B and the Family Educational Rights and Privacy Act (FERPA) of 1974.

B. The Department shall give notice which is adequate to inform parents fully about the requirements under identification, location and evaluation of students with disabilities.

1. The notice shall provide a description of the extent to which the notice is given in the native languages of the various population groups in the state.

2. The notice shall provide a description of the students on whom personally identifiable information is maintained, the types of information sought, the method the state intends to use in gathering the information (including the sources from whom information is gathered) and the uses to be made of the information.

3. The notice shall provide a summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information.

4. The notice shall provide a description of all of the rights of parents and students regarding this information, including the rights under the FERPA.

5. Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers, or other media, or both, with circulation adequate to notify parents throughout the state of the activity.

C. In ensuring access rights, each LEA shall permit parents to inspect and review any educational records relating to their child which are collected, maintained or used by the LEA under these Regulations. The LEA shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student; in no case shall the time exceed 45 days after the request has been made. The LEA shall not destroy any educational records if there is an outstanding request to inspect and review the records.

1. The right to inspect and review any educational records includes the following:

a. the right to a response from the LEA to reasonable requests for explanations and interpretations of the records;

b. the right to request that the LEA provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

c. the right to have a representative of the parent inspect and review the records when written permission by the parent is presented.

2. Any LEA may presume that a parent has authority to inspect and review records relating to his or her child unless the LEA has been advised that the parent does not

have the authority under applicable state law governing such matters as guardianship, separation and divorce.

D. In ensuring record of access, each LEA shall keep a record of parties attaining access to education records collected, maintained or used under these Regulations (except access by parents or authorized parties of the LEA), including the name of the party, the date access was given, and the purpose for which the party was authorized to use the record.

E. When any educational record includes information on more than one student, the parents of those students shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

F. Each LEA shall provide parents, on request, a list of the types and locations of education records collected, maintained or used by the LEA.

G. Each LEA may charge a fee for copies of records that are made for parents under these Regulations if the fee does not effectively prevent the parents from exercising their right to inspect and review those records; but an LEA may not charge a fee to search or to retrieve information under these Regulations.

H. Amendments of records at parent's request shall follow prescribed guidelines.

1. The parent shall have a right to have the child's records amended when the parent believes that the information contained in the records is inaccurate, misleading or otherwise in violation of the parent's and child's privacy or other rights.

2. After the receipt of a request by a parent of a student with a disability to amend the student's record, the LEA shall decide within a reasonable time whether to amend.

3. If the LEA refuses to amend the records as requested by the parent, the LEA shall inform the parent of the right to request a hearing as stated below.

I. The LEA shall, on request, provide an opportunity for a hearing to challenge information in educational records to ensure that they are not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student.

1. A hearing held under these Regulations shall be conducted according to the procedures under the Family Educational Rights and Privacy Act (FERPA).

J. Results of a hearing regarding records have the following stipulations.

1. If, as a result of a hearing, the LEA decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parents in writing.

2. If, as a result of a hearing, the LEA decides that the information is not inaccurate, misleading or otherwise in violation of privacy or other rights, the parents shall be afforded a right to place in the record comments they may have concerning the records or comments setting forth any reasons for disagreeing with the decision of the agency.

3. Any explanation placed in the record shall be maintained by the LEA as part of the records of the student as long as the record or contested portion is maintained by the LEA; and if the records of the student or the contested

portion are disclosed by the LEA to any party, the explanation shall also be disclosed to the party.

K. Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of the LEA collecting or using the information under these Regulations subject to Paragraph 2 below of this Section, or used for any purpose other than meeting a requirement of these Regulations.

1. An LEA or institution subject to FERPA may not release information from education records to LEA without parental consent unless authorized to do so under FERPA.

2. If a parent refuses to provide consent under this Section, the requesting agency may file a written complaint with the SDE. Such a complaint shall be investigated by the Division according to adopted procedures for the complaint management required by these Regulations.

L. Each LEA shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

1. One official at each LEA shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

2. Any persons collecting or using personally identifiable information shall receive training or instruction regarding the state's policies and procedures.

3. Each LEA shall maintain for public inspection a current listing of the names and the positions of those employees within the agency who may have access to personally identifiable information.

M. The LEA shall inform parents when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student.

1. The information shall be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed and year completed may be maintained without time limitation.

N. All rights of privacy afforded to parents shall be afforded to students with disabilities.

1. Under the regulations for the Family Educational Rights and Privacy Act of 1974, the rights of parents regarding educational records shall be transferred to the student at age eighteen.

2. If the rights accorded to parents under Part B of the IDEA and these regulations are transferred to a student who reaches the age of majority, consistent with section §519 of these regulations, the rights regarding educational records shall also be transferred to the student. However, the LEA shall provide any notice required under these Regulations to the student and the parent.

O. The *Compliance Monitoring Procedures Handbook, Bulletin 1922*, includes the policies, procedures and sanctions that the state shall use to ensure that the requirements of IDEA-Part B and these Regulations are met.

P. The LEA shall include in the records of a student with a disability, a statement of any current or previous disciplinary action that has been taken against the student, and transmit the statement to the same extent that the disciplinary information is included in and transmitted with the student records of nondisabled students.

1. The statement shall include a description of any behavior engaged in by the student that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the student and other individuals.

2. If the student transfers from one school to another, the transmission of any of the student's records shall include both the student's IEP and any statement of current or previous disciplinary action that has been taken against the student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:669 (April 2000).

§518. Transfer of Parental Rights at the Age of Majority

A. When a student with a disability reaches the age of majority that applies to all students (except for a student with a disability who has been determined to be incompetent under state law), he or she shall be afforded those rights guaranteed at such age.

1. The LEA shall provide any notice required by these Regulations to both the individual and the parent; all rights accorded to parents under these Regulations shall transfer to the student.

2. All rights accorded to parents under these Regulations shall transfer to students who are incarcerated in an adult or juvenile, state or local correctional institutions.

3. Whenever rights transfer under these Regulations pursuant to paragraph A.1 and 2, the LEA shall notify the individual and the parent of the transfer of rights.

B. Each LEA shall follow the procedures established by the Department for appointing the parent or an appropriate individual to represent the educational interest of a student with a disability who has reached the age of majority and has not been determined incompetent under state law, but does not have the ability to provide informed consent with respect to his or her educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:670 (April 2000).

§519. Discipline Procedures for Students with Disabilities

A. For purposes of removal of a student with a disability from the student's current educational placement under §519.B.-L. of these Regulations, a change of placement occurs when:

1. a student with a disability is removed from his or her current educational placement for more than ten consecutive school days; or

2. a student with a disability is subjected to a series of removals that constitute a pattern because they cumulate to more than ten school days in a school year and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

B. School personnel have the authority to order a change in placement for a student with a disability when certain conditions exist.

1. School personnel may order a removal of a student with a disability from the student's current educational placement for not more than ten consecutive school days for

any violation of school rules to the extent a removal would be applied to a student without a disability, and school personnel may order additional removals of not more than ten consecutive school days in the same school year for separate incidents of misconduct as long as the removals do not constitute a change of placement as defined in 519. A. of this section.

2. School personnel may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for the same amount of time a student without a disability would be subject to discipline, but for not more than 45 days, if

a. the student has carried a weapon to school or to a school function under the jurisdiction of the state or an LEA; or

b. the student has knowingly possessed or used illegal drugs or sold or solicited the sale of a controlled substance while at school or a school function under the jurisdiction of the state or an LEA.

C. For purposes of this section, the following definitions apply:

Controlled Substance means a drug or other substance identified under schedule I, II, III, IV, or V in Sec. 202 (c) of the Controlled Substance Act (21 U.S.C. 812 (c)).

Illegal Drug means a controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

Weapon has the meaning given the term *dangerous weapon* under paragraph (2) of the first subsection (g) of Sec. (g) of Sec 930 of Title 18, United States Code.

D. A hearing officer who meets the requirements of §502 of these Regulations has the authority to order a change in placement for a student with a disability when certain conditions exist.

1. The hearing officer may order a change in the placement of a student with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer, in an expedited due process hearing:

a. determines that the LEA has demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others (substantial evidence means beyond a preponderance of the evidence);

b. considers the appropriateness of the student's current placement;

c. considers whether the LEA has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and

d. determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the student's special education teacher meets all IAES requirements as set forth in Paragraph F below.

E. An LEA need not provide services during periods of removal under §519.B.1. to a student with a disability who has been removed from his or her current placement for ten school days or less in that school year, if services are not

provided to a student without disabilities who has been similarly removed.

1. In the case of a student with a disability who has been removed from his or her current placement for more than ten school days in that school year, the LEA, for the remainder of the removals, shall provide services to the extent necessary to enable the student to progress appropriately in the general curriculum and to advance appropriately toward achieving the goals set out in the student's IEP, if the removal is:

a. under the school personnel's authority to remove under §519.B.1 for not more than ten consecutive school days as long as that removal does not constitute a change of placement as defined in §519.A. of these Regulations; school personnel, in consultation with the student's special education teacher, shall determine the extent to which services are necessary to enable the student to progress appropriately in the general curriculum and to advance appropriately toward achieving the goals set out in the student's IEP;

b. for behavior that is not a manifestation of the student's disability consistent with ' 519.G of these Regulations; the student's IEP team shall determine the extent to which services are necessary to enable the student to progress appropriately in the general curriculum and to advance appropriately toward achieving the goals set out in the student's IEP.

2. An LEA shall provide services that will enable the student to continue to progress in the general curriculum and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP. The LEA shall include services and modifications designed to address the behavior described below and to prevent the behavior from recurring if the removal is:

a. for drugs or weapon offenses (the IEP team determines the interim alternative educational setting); or

b. based on a hearing officer's determination that maintaining the current placement of the student is substantially likely to result in injury to the student or others if he or she remains in the current placement. (School personnel in consultation with the student's special education teacher shall propose the interim alternative educational setting to the hearing officer.)

F. Either before or not later than ten business days after either first removing the student for more than ten school days in a school year or commencing a removal that constitutes a change of placement as defined in 519.A. and including the action describe 519 B.2 of this section, the LEA shall follow prescribed procedures as listed below.

1. If the LEA did not conduct a functional behavior assessment and implement a behavioral intervention plan for the student before the behavior that resulted in the removal occurred, the LEA shall convene an IEP meeting to develop an assessment plan.

2. If the student already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation as necessary, to address the behavior.

3. As soon as practicable after developing the behavioral intervention plan and completing the assessment required by the plan, the LEA shall convene an IEP meeting

to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.

4. If subsequently, a student with a disability who has a behavioral intervention plan and who has been removed from his or her placement for more than ten school days in a school year is subjected to a removal that does not constitute a change of placement, the IEP team members shall review the behavior intervention plan and its implementation to determine whether modifications are necessary.

a. If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan and its implementation to the extent the team determines necessary.

G. The interim alternative educational setting referred to in paragraph B of this section shall be determined by the IEP team. Any interim alternative educational setting in which a student is placed under paragraphs B.2 and C of this section shall:

1. be selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP; and

2. shall include services and modifications designed to address the behavior described in paragraph B.2. and C. and to prevent the behavior from recurring.

H. Manifestation determination review is required whenever an action involving a removal that constitutes a change of placement for a student with a disability is contemplated.

1. Not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and shall be provided the procedural safeguards notice (Louisiana's Educational Rights of Children with Disabilities).

2. Immediately, if possible, but in no case later than ten school days after the date on which the decision to take that action is made, a review shall be conducted of the relationship between the student's disability and the behavior subject to the disciplinary action.

3. The review shall be conducted by the IEP team and other qualified personnel in a meeting.

4. In carrying out the manifestation determination review, the IEP team and other qualified personnel may determine that the behavior of the student was not a manifestation of the student's disability only if the IEP team and other qualified personnel:

a. consider, in terms of the behavior subject to disciplinary action, all relevant information, the evaluation and diagnostic results, including the results or other relevant information supplied by the parent or student; observations of the student; and the student's IEP and placement; and

b. determine that:

i. in relationship to the behavior subject to disciplinary action, the student's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the student's IEP and placement;

ii. the student's disability did not impair the ability of the student to understand the impact and

consequence of the behavior subject to disciplinary action; and

iii. the student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.

5. If the IEP team and other qualified personnel determine that any of the standards in paragraph 4.b. of this section were not met, the behavior shall be considered a manifestation of the student's disability.

6. If the IEP team and other qualified personnel determine that the behavior is a manifestation of the student's disability, the disciplinary removal cannot occur, unless the removal is in accordance with §519.B.2.(a) and (b) and §519.C of these Regulations. The IEP team may consider modification to the student's program (e.g., additional related services, counseling, changes in the behavior management plan, increased time in special education, changes to class schedules, change of teacher).

7. The manifestation review meeting may be conducted at the same IEP meeting that is convened to conduct the functional behavioral assessment.

8. If in the review, the LEA identifies deficiencies in the student's IEP or placement or in their implementation, it shall take immediate steps to remedy those deficiencies.

I. When the determination is made that the behavior was not a manifestation of the student's disability, prescribed guidelines shall be followed.

1. If the results of the manifestation determination review is that the behavior of the student was not a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities except a FAPE as defined in paragraph E. of this section shall be provided.

2. If the LEA initiates disciplinary procedures applicable to all students, the LEA shall ensure that the special education and disciplinary records of the student with a disability are transmitted for consideration by the persons or persons making the final determination regarding the disciplinary action.

3. Except as provided in §519.K.1 of these Regulations, if a parent requests a hearing to challenge a determination made through the review process that the behavior of the student was not a manifestation of the student's disability, the student's status during due process proceeding shall follow §514 of these Regulations.

J. If the student's parent disagree with a determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement and discipline, the parent may request a hearing.

1. The state or LEA shall arrange for an expedited hearing in any case described in the above paragraph if a hearing is requested by a parent.

a. In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the LEA has demonstrated that the student's behavior was not a manifestation of the student's disability.

b. In reviewing a decision under §519 B.2. of these Regulations to place a student in an interim alternative

educational setting, the hearing officer shall apply the standards in §519. G of these Regulations.

K. The student's placement during appeal shall follow prescribed guidelines.

1. If the parents request a hearing or an appeal regarding a disciplinary action described in §519.B.2 or §519.C to challenge the interim alternative educational setting or the manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until expiration of the time period provided for in §519.B.2 or §519.C, whichever occurs first, unless the parent and the state or LEA agree otherwise.

2. If a student is placed in an interim alternative educational setting pursuant to §519.B.2 and §519.C and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the current placement (student's placement prior to the interim alternative educational setting), except as provided in §519.J.1.

3. The LEA may request an expedited due process hearing if school personnel maintain that it is dangerous for the student to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings.

a. In determining whether the student may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards in §519 F.

b. A placement ordered pursuant to 3.a above may not be longer than 45 days.

c. The procedures in 3 above may be repeated as necessary.

L. A student who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the LEA including any behavior described in §519 B and 519 E, may assert any of the protections provided for in this section if the LEA had knowledge (as determined in accordance with paragraph (2) below) that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

1. An LEA shall be deemed to have knowledge that a student is a student with a disability if:

a. the parent of the student has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to personnel of the LEA that the student is in need of special education and related services;

b. the behavior or performance of the student demonstrates the need for these services, in accordance with the definition of a student with a disability;

c. the parent of the student has requested an evaluation of the student; or

d. the teacher of the student or other personnel of the LEA has expressed concern about the behavior or performance of the student to the director of special education of the LEA or to other personnel in accordance with the LEA's established child find or special education referral system.

2. An LEA would not be deemed to have knowledge under paragraph 2 above, if as a result of receiving the information specified in that paragraph, the LEA either:

a. conducted an evaluation and determined that the student was not a student with a disability; or

b. determined that an evaluation was not necessary and provided notice to the student's parents of its determination.

3. Certain conditions apply if there is no basis of knowledge.

a. If an LEA does not have knowledge that a student is a student with a disability, in accordance with paragraphs 1 and 2 above, prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors.

b. If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in less than 60 business days without exception or extensions.

4. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

5. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services.

M. Expedited due process hearings addressed in paragraph J. of this section shall follow the procedures prescribed below.

1. The hearing shall meet the requirements of §507.A. of these Regulations.

2. The hearing shall be conducted by a due process hearing officer that meets the criteria established in §508 of these Regulations.

3. The hearing shall result in a written decision that shall be mailed to the parties within 20 business days of the LEA's receipt of the request for the hearing, without exceptions or extensions.

4. The hearing shall have time lines that are the same for hearings requested by the parents or the LEA.

5. The hearing shall be conducted according to guidelines established in §508 of these Regulations, where appropriate, and according to guidelines established by the Department.

6. The decisions on expedited due process hearings are appealable consistent with the procedures established at §509 of these Regulations. The request for an appeal of the expedited due process hearing shall be sent to the Department by certified mail within five business days of receipt of the expedited due process hearing decision. A final decision shall be reached in the review and a copy mailed to all parties within 20 business days of receipt of the request for a review without exceptions or extensions.

N. Nothing in this part prohibits an LEA from reporting a crime committed by a student with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard

to the application of Federal and state law to crimes committed by a student with a disability.

1. An LEA reporting a crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime.

2. An LEA reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:670 (April 2000).

§520. - 599. Reserved

Chapter 6. Establishment and Operation of Special School District

§601. Establishment of Special School District (SSD)

A. Special School District (SSD) is an educational service agency administered by the Louisiana Department of Education with the approval of the SBESE serving in the capacity of the governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:674 (April 2000).

§602. Program Approval

A. Each educational program operated by SSD shall meet the Standards for school approval as established in the *School Administrator's Handbook, Bulletin 741*.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:674 (April 2000).

§603. Purpose

A. The instructional programs operated by SSD shall consist of Special School District Number 1 (SSD#1) and Special School District Number 2 (SSD#2).

1. The purposes of SSD#1 is to provide a free appropriate public education for eligible students with disabilities, ages three through twenty-one years, who have been enrolled in state operated programs and to provide appropriate educational services to school-aged students enrolled in state-operated mental health facilities.

2. The purpose of SSD#2 is to provide appropriate educational, vocational, and related services to eligible students who are placed by Department of Public Safety and Corrections (DPS&C) in certain privately-operated secure juvenile correctional facilities.

3. During this period, SSD shall assume jurisdiction and responsibility for education on an individual basis for each student to assure that each student receives an uninterrupted appropriate educational program.

B. When providing a FAPE to students with disabilities who are convicted as adults under state law and incarcerated in adult prisons, certain requirements do not apply or can be modified.

1. The requirements do not apply relating to participation of students with disabilities in general assessments.

2. The requirements do not apply relating to transition planning and transition services to students whose eligibility under these Regulations will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

3. The requirements relating to IEP or placement may be modified by the IEP team of a student with a disability if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:674 (April 2000).

§604. - 629. Reserved

§630. General Responsibilities

A. Whenever a student enters the jurisdiction of SSD consistent with the requirements of these Regulations, SSD shall be responsible for either providing or causing to be provided all needed educational services to each student in full compliance with provisions of Chapter 4 of these Regulations, and/or as stipulated in *Bulletin 741*, as listed below.

1. The necessary certified personnel to ensure the conduct of an Individual Evaluation for each student within its jurisdiction in accordance with all requirements of §430-436 of these Regulations.

2. The development and implementation of an IEP for each student with disabilities in accordance with §440-446 of these Regulations.

3. Adequate administrative and instructional personnel to implement each student's educational plan.

4. Adequate personnel to establish and maintain the appropriate relationships with each affected LEA to provide for a smooth transition of educational services for each student leaving SSD.

5. The transmission of all educational records of a student leaving SSD to the LEA in which the student will be enrolled or seeking to be enrolled.

6. The adherence to all procedural safeguards of Chapter 5.

B. The assumption of this responsibility by SSD shall not relieve in any way an insurer, similar third party, or state or local public agency - e.g., Department of Health and Hospitals (DHH), Department of Public Safety and Corrections (DPS&C) - from an otherwise valid obligation to provide or to pay for services to which students are entitled as clients or beneficiaries of such third parties under state or Federal entitlement or laws, or under policies or contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:674 (April 2000).

§631. Jurisdiction

A. SSD has jurisdiction over all students with disabilities enrolled in residential facilities operated by DHH or DPS&C, eligible students enrolled in facilities operated by OMH, eligible students placed by DPS&C in certain privately-operated secure juvenile correctional facilities, and students placed by SSD in an LEA. When a student is no longer enrolled in a state-operated facility, jurisdiction is

transferred from SSD to the LEA of current residence of the student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:674 (April 2000).

§632. Enrollment

A. Students as identified in §631 shall be enrolled in a SSD school/ program after admission to a state-operated residential facility or to certain privately-operated secure juvenile correctional facilities.

B. SSD shall develop with each affected agency an interagency agreement for the purpose of implementing the above requirements, which shall include procedures for the joint development of each IEP; educational plan; and treatment, care, or habilitation plan.

C. Wherever possible, consistent with the rules for the least restrictive environment, students enrolled in SSD shall participate in educational programs operated by LEAs serving the geographic attendance area in which the facility is located.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§633. Reserved

§634. Emergency and Respite Care Program

A. The admission of a student by the State of Louisiana into a DHH facility for a temporary program of respite care shall not automatically require enrollment in SSD for the purpose of these Regulations. The admission of a student on an emergency basis shall not constitute enrollment in SSD. However, if such admission continues on a nonemergency basis after a decision has been made by the legally constituted agency (i.e., DHH or DPS&C) or by a court of the State of Louisiana to place the student in a state-operated residential facility, the student shall be enrolled in SSD in accordance with §632 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§635. - 649. Reserved

§650. Financing

A. The Department shall provide to SSD whatever financial resources are necessary to support the educational programs of SSD.

B. The cost of teachers, paraeducators, principals, speech therapists, pupil appraisal personnel, and other instructional support staff for the educational programs operated by SSD shall be included in the operating budget prepared by the Department. SSD may from time to time enter into contracts for the delivery of educational services with LEAs in whose jurisdiction residential facilities are located. LEAs shall participate in such contractual arrangements unless the State Board approves the request by a LEA for exemption from this obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§651. - 689. Reserved

§690. Instructions for Child Count

A. Each LEA shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the Annual Child Count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each LEA/state agency shall determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B. It is the responsibility of the LEA/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education (IEP) Program or early intervention services, as stated on the Individualized Family Service Plan (IFSP).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§691. Individual Evaluation

A. Individual evaluations in SSD shall be conducted to comply with all requirements of §430-436 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§692. IEP and Placement Development and Review

A. The IEPs and placement of students enrolled in SSD shall be developed and implemented in accordance with §440-446 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§693. Procedural Safeguards

A. Students and parents of students with disabilities enrolled in SSD#1 shall be provided the procedural safeguards in accordance with Chapter 5 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§694. Reserved

§695. Monitoring and Complaint Management

A. Special School District shall develop an internal monitoring and complaint management system.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§696. - 699. Reserved

Chapter 7. Responsibilities of State Board Special Schools

§701. Establishment

A. The State Board Special Schools (Louisiana School for the Deaf, Louisiana School for the Visually Impaired, and Louisiana Special Education Center) are state operated schools providing educational programs and services for students with disabilities. These schools are administered by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000).

§702. School Approval

A. Each State Board Special School shall meet the Standards for School Approval of the SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:676 (April 2000).

§703. Purpose

A. State Board Special Schools are designated to provide a free appropriate public education for students who, because of low-incidence impairments (i.e., deaf, blind, orthopedic impairment) meet the criteria for admission for each such special school; they are enrolled in such special school on a residential basis. The quality of education shall be equal to that received by any other similar student with disabilities in the LEAs of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:676 (April 2000).

§704. Administrative Organization

A. The SBESE is the governing board of the State Board Special Schools. The Department administers such special schools through the schools' appointed superintendents. The superintendent of each special school shall administer the special school for which he or she is responsible in compliance with approved SBESE policies and procedures, these Regulations, and other applicable bulletins.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:676 (April 2000).

§705. General Responsibilities

A. Whenever a student with disabilities enters a State Board Special School in compliance with §401 D.6. of these Regulations, provision for a FAPE shall be the responsibility of the LEA with jurisdiction in accordance with §706.

B. State Board Special Schools shall, upon admitting a student with disabilities in compliance with §716, assume the responsibility for providing the student a free appropriate public education in full compliance with all provisions of Chapter 4 of these Regulations, including those related to child search, evaluation, IEP development and implementation, and placement; the provision of special education and related services; adherence to procedural safeguards; and certification of staff.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:676 (April 2000).

§706. Jurisdiction

A. All students with disabilities referred by an LEA and admitted as full-time residential students into a State Board Special School shall be under the jurisdiction of the State Board Special School.

B. Students with disabilities referred by an LEA and admitted as full-time students to participate in the academic and nonacademic programs to the extent necessary to meet the individual needs of the student, with the exception of residential services because of the proximity of residence of

parents and/or other residential arrangements, shall also be under the jurisdiction of State Board Special Schools.

C. Students with disabilities under the jurisdiction of the State Board Special School, but placed in an educational program or receiving services in an LEA, shall remain under the jurisdiction of the State Board Special School.

D. Students with disabilities placed by an LEA in a State Board Special School shall remain under the jurisdiction of the placing LEA.

E. The LEA which retains jurisdiction shall retain the fiscal responsibility for funds or resources not available to the other system from the state or through an interagency agreement or cooperative program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:676 (April 2000).

§707. Enrollment (Admission and Release)

A. Eligible students with disabilities shall be admitted to State Board Special Schools according to admission procedures established by the State Board Special School, approved by the SBESE, and in compliance with §303 or §716 of these Regulations.

B. Students with disabilities admitted to State Board Special Schools shall be released from enrollment according to procedures established by the State Board Special School, approved by the SBESE, and in compliance with these Regulations.

1. Students with disabilities currently enrolled in State Board Special Schools shall not be referred to an LEA without a review of the current IEP/Placement (in compliance with §440 and 451.D) conducted by the State Board Special School and an LEA representative.

2. Prior to the release of any student placed in a State Board Special School, through out-of-district placement procedures at §451.B, the Division shall review and approve each release.

C. State Board Special Schools may enter into interagency agreements with Special School District for cooperative supportive efforts in the provision of services, such as child search, evaluation and coordination.

D. Admission to a State Board Special School does not necessarily mean that all educational services described in the IEP of the student shall be provided within such facility. Wherever appropriate, consistent with the rules for a least restrictive environment in §446, students admitted to State Board Special School programs shall participate in educational programs operated by LEAs serving the geographic attendance area in which the facility is located.

E. Admission to a State Board Special School shall not relieve in any way an insurer, similar third party, or other state or local public agency (e.g., DHH, DPS&C, DSS) from an otherwise valid obligation either to provide or to pay for services to which students with disabilities are entitled as clients or beneficiaries of such third parties under state or Federal entitlement or laws, or under policies or contracts.

F. State Board Special Schools may not deny admission or release from enrollment any student with a disability who exhibits behavioral concerns. All procedural safeguards, as found in Chapter 5 of these Regulations, shall be afforded the student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:676 (April 2000).

§708. Financing

A. State Board Special Schools shall apply for state funds by submitting annual budgets approved by the SBESE to the Louisiana Legislature. Such budgets shall indicate Federal and state sources of revenue. Each State Board Special School shall have its own schedule number in the annual appropriation bill.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§709. Child Search Activities

A. State Board Special Schools shall cooperate with each LEA in which the parents of a student with a disability enrolled in the State Board Special School are domiciled to permit the LEA to carry out its ongoing responsibility with respect to child search when a student is in a State Board Special School.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§710. Reserved

§711. Instructions for Child Count

A. Each LEA shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the Annual Child Count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each LEA/state agency shall determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B. It is the responsibility of the LEA/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program or early intervention services, as stated on the Individualized Family Service Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§712. Individual Evaluation

A. Individual evaluations in State Board Special Schools shall be conducted in compliance with all requirements of §430-436 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§713. IEP/Placement

A. IEP/Placement of students enrolled in a State Board Special School shall be reviewed or revised and implemented in accordance with §440-459 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§714. Procedural Safeguards

A. Students with disabilities and parents of students with disabilities enrolled in a State Board Special School shall be

afforded all the procedural safeguards provided by Chapter 5 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§715. Monitoring and Complaint Management

A. The State Board Special Schools shall develop an internal monitoring and complaint management system.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§716. Louisiana Schools for the Deaf and the Visually Impaired Alternative Placement

A. In compliance with R.S. 17:348 and R.S. 17:1946.B(2) the Louisiana School for the Deaf (LSD) and the Louisiana School for the Visually Impaired (LSVI) shall determine, not later than the second Monday in September of each year, the number of additional students who may be admitted under this placement option. LSD and LSVI shall base the determination on the availability of all necessary resources required to provide a free appropriate public education.

B. Upon receipt from a parent (as defined in Chapter 9 of these Regulations) of an application for admission of his or her child, LSD or LSVI shall require, at a minimum, an individual evaluation which meets the requirements in the *Pupil Appraisal Handbook* for classification as having a hearing impairment (i.e., deaf, hard of hearing) or a visual impairment (i.e., blindness, partial sight) as a part of the application. LSD or LSVI shall notify the LEA of the parent/student domicile that the application has been made, in order to fulfill the provisions established in §709 of these Regulations.

C. Within 45 business days, LSD or LSVI shall process the application, make a determination of eligibility for admission, and develop an Individualized Education Program (IEP). In the development of the IEP, the parent shall be informed of all placement options available to meet the student's educational needs.

D. LSD or LSVI shall notify the LEA of the parent/student domicile that a student has been admitted or rejected under the provisions of this Subsection.

E. The applicable procedural safeguards established in Part 500 of these Regulations shall be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§717. - 799. Reserved

Chapter 8. Interagency Agreements

§801. General Statement

A. Under R.S. 17:1941-1958 et seq., the SBESE has authorized the Department, Division of Special Populations to enter into any agreement developed with another public or private agency, or agencies, whenever such an agreement is consistent with the Regulations; is essential to the achievement of full compliance with the Regulations; is designed to achieve or accelerate the achievement of the full educational goal for all students with disabilities; and is necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational

opportunity goal in the state. Each LEA and the Department shall enter into all interagency agreements or other mechanisms for interagency collaboration specified in the regulations by following all the requirements in this part.

B. As used in this part, *interagency agreement* means an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000).

§802. - 809. Reserved

§810. Relationship Between LEAs and the Department

A. The relationship between the Department and the LEAs is defined by these Regulations in regard to providing a free appropriate public education to students with disabilities. Interagency agreements shall not be necessary to define such relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:678 (April 2000).

§811. - 819. Reserved

§820. Purpose of Interagency Agreements

A. The purpose of interagency agreements shall be to assure that the standards established by Federal/state mandates and the SBESE to ensure a free appropriate public education for students with disabilities are upheld when they are implemented by an approved public or private agency not within the governance of the SBESE.

B. The agreements are mandated to provide maximum use of both human and fiscal resources in the delivery of special education and related services and to identify or define a method for defining the financial responsibility of each agency.

C. Agreements may be entered into with parties both inside and outside the State of Louisiana with special consideration being given to abide by the rules for least restrictive environment. Nothing in any agreement shall be construed to reduce assistance available or to alter eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:678 (April 2000).

§821. - 829. Reserved

§830. Types of Interagency Agreements

A. SDE and SSD shall have agreements with the Department of Health and Hospitals (DHH), the Department of Social Services (DSS), and the Department of Public Safety and Corrections (DPS&C), and/or other state agencies and their sub-offices, where appropriate. LEAs shall have those agreements whenever necessary for the provision of a free appropriate public education. The State School for the Deaf, State School for the Visually Impaired and the State Special Education Center, now under the auspices of SSD, shall have interagency agreements with the LEA in whose geographic area they are located; with each LEA that places a student in the day programs of that facility; with regional state agencies; and with habilitation agencies with which they share students.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:678 (April 2000).

§831. - 839. Reserved

§840. Mandatory Content of Interagency Agreements

A. Each agreement shall contain, in writing, information specified by Federal and state mandates and SBESE policy, as listed below:

1. a statement describing the disparate governance being dealt with by the parties of the agreement;
2. the reason for writing the agreement;
3. the responsibilities of each party of the agreement for providing a FAPE, including policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency designed to promote the coordination and timely and appropriate delivery of services;
4. an identification of or a method for defining financial responsibility of each agency in providing services, including conditions and terms of reimbursement;
5. all applicable state and Federal standards that will apply to the agreement being developed;
6. the data to be exchanged and the methods for exchanging them;
7. the statements with respect to Child Search and confidentiality issues;
8. the monitoring schedule and procedures;
9. the duration of the agreement;
10. the process for amending the agreement, to include not only the statement to the effect that the contract may be terminated upon 30 days written notice but also the procedures for the disposition of data/materials collected to that point;
11. any information specific to an agency which is necessary for approval of the agreement by the Department;
12. the names, titles and signatures of individuals authorized to enter into such agreements.

B. Interagency agreements shall be reviewed annually. It is not necessary to write a new agreement if there is documentation between parties that the existing signed agreement is still agreeable to all parties.

C. In addition, the agreements shall contain the three statements listed below for conformance to Division of Administration requirements.

1. The Contractor shall not assign any interest in this contract and shall not transfer any interest in same (whether by assignment or novation) without prior written consent of the state, provided, however, that claims for money due or to become due to the Contractor from the state may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the state.

2. The Contractor shall agree to abide by all of the provisions of R.S. 43:31 in regard to the printing of public documents. The Contractor shall agree that prior to the final publication of any reports, documents, or publications of whatever nature for delivery to or used by the state, the final proofs shall be proofread by personnel of the Department and that no final printing shall occur until the Contractor has been advised by the Department in writing that the text of materials to be printed has been proofread and approved.

3. The Contractor shall agree that the Legislative Auditor of the State of Louisiana and/or the Office of the Governor, Division of Administration's auditors shall have the option of auditing all of the Contractor's accounts that relate to this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:678 (April 2000).

§841. - 859. Reserved

§860. Resolving Interagency Disputes

A. The steps to be followed to resolve interagency disputes including funding in an expeditious manner have been prescribed by the SBESE.

1. For agency disputes between educational agencies over which SBESE has control, regular complaint procedures shall be followed.

2. For interagency disputes at the local, regional, or state level that involve either program or financial responsibility, referral to the Office of the Governor shall be made.

3. If a dispute continues beyond these interventions, either party of the dispute may seek resolution from a court of competent authority.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:679 (April 2000).

§861. - 899. Reserved

Chapter 9. Definitions

§901. Terms

A. The terms defined in §902-904 of this Chapter are used throughout these Regulations. Unless expressly provided to the contrary, each term used in these Regulations shall have the meaning established by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:679 (April 2000).

§902. Abbreviations/Acronyms Used in these Regulations

- A. DSS - State Division of Social Services
- B. DHH - State Department of Health and Hospitals
- C. DPS&C - State Department of Public Safety and Corrections
- D. FAPE - Free Appropriate Public Education
- E. FERPA - Family Educational Records and Privacy Act of 1974
- F. IDEA - Part B of the Individuals with Disabilities Education Act amends the Education for All Handicapped Children Act of 1975 formerly known as EHA (P.L. 94-142).
- G. IEP - The Individualized Education Program required by §440 of these Regulations
- H. LEA - Local Education Agency
- I. LRE - Least Restrictive Environment
- J. SBESE - State Board of Elementary and Secondary Education
- K. Section 504 - Section 504 of the Rehabilitation Act of 1973, 29 USC 706 and the Regulation issued by the U.S. Department of Education at 45 CFR 84
- L. SSD#1 and SSD#2 - Special School District Number One and Two

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:379 (April 2000).

§903. Abbreviated Terms

A. The Act - Sections 1941 through 1958 of Chapter 8 of Title 17 of Louisiana Statutes of 1950, as amended

B. The Department - The State Department of Education

C. The Division - The Division of Special Populations of the State Department of Education

D. The State - The State of Louisiana

E. The State Board - The State Board of Elementary and Secondary Education

F. The State Board Special Schools - The Louisiana Special Education Center, The Louisiana School for the Deaf, The Louisiana School for the Visually Impaired

G. The Superintendent - The State Superintendent of Public Elementary and Secondary Education

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:379 (April 2000).

§904. Definitions

Adapted Physical Education is specially designed physical education for not only students with disabilities who may not safely or successfully engage in unrestricted participation in the vigorous activities of the regular physical education program on a full-time basis but also for students with disabilities, ages three through five, who meet the criteria specified in *The Pupil Appraisal Handbook*. The delivery of adapted physical education required by an IEP shall meet the following conditions:

1. evaluation and instruction are provided by a certified adapted physical education teacher;

2. only students with disabilities whose need is documented in accordance with criteria for eligibility as identified in the *Pupil Appraisal Handbook* are included in the caseload;

3. the caseload is in accordance with the pupil/teacher ratios listed in Chapter 10 of these Regulations.

Age of Majority as defined in Louisiana, means 18 years of age.

Alternative Placement means any educational placement within the preschool, elementary, and secondary structure of the state specially designed for providing for the needs of students with disabilities. At a minimum, the continuum of alternative placements shall include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. Provisions shall be made for supplementary services (such as resource or itinerant instruction) to be provided in conjunction with regular class instruction.

Alternative Assessment means a substitute approach used in gathering information on the performance and progress of students who do not participate in typical state assessments. Under these Regulations, alternate assessments shall be used to measure the performance of a relatively small population of students with disabilities who are unable to participate in the general statewide assessment system, even with accommodations and modifications.

Assistive Technology Device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is

used to increase, maintain, or improve functional capabilities of a student with a disability.

Assistive Technology Service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

1. the evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;
2. purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;
3. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing educational and rehabilitation plans and programs;
5. training or technical assistance for a student with disabilities, or, if appropriate, that student's family; and
6. training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that student.

At No Cost means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular educational program.

Audiology as a related service, means

1. the identification of students with hearing loss;
2. the determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
3. the provision of habilitative activities such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
4. the creation and administration of programs for prevention of hearing loss;
5. the counseling and guidance of students, parents, and teachers regarding hearing loss; and
6. the determination of the student's needs for group and individual amplification, the selection and fitting of an appropriate aid, and the evaluation of the effectiveness of amplification.

Autism means a developmental disability that significantly affects verbal and nonverbal communication and social interaction, generally evident before age three, and that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance. A student who manifests the characteristics of autism after age three could be diagnosed as having autism if the criteria are satisfied.

Business Day means Monday through Friday, except Federal and state holidays (unless holidays are specifically included in the designation of business day).

Certificate of Achievement refers to an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below. The receipt of a Certificate of Achievement shall not limit a student's continuous eligibility for services under these Regulations unless the student has reached the age of twenty-two.

1. The student has a disability under the criteria in the *Pupil Appraisal Handbook*.
2. The student has participated in alternate assessment.
3. The student has completed at least 12 years of school or has reached the age of 22 (not to include students younger than 16).
4. The student has met attendance requirements according to *Bulletin 741*.
5. The student has addressed the general education curriculum as reflected on the student's IEP.
6. Transition planning for the student has been completed and documented.

Certificate of Achievement - Provisional Eligibility Criteria refers to an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below.

1. Eligible students are those:
 - a. who have disabilities under the criteria in the *Pupil Appraisal Handbook*;
 - b. who were in an Alternative to Regular Placement (ARP) program during the 1997-98 school year as documented in the IEP;
 - c. who were enrolled in grades 6, 7, 8, 9, 10, or 11 during the 1998-99 school year; and
 - d. who their IEP team determined did not meet the LEAP Alternate Assessment Participation Criteria.
2. Eligible students shall meet the Provisional Eligibility Criteria listed below to be awarded a Certificate of Achievement. The receipt of a Certificate of Achievement shall not limit a student's continuous eligibility for services under these Regulations unless the student has reached the age of twenty-two.
 - a. The student has participated in general district and statewide assessments, including all components of the Graduation Exit Examination (GEE).
 - i. If the student has failed a component of the GEE, the decision to retake that component of the GEE is an IEP team decision.
 - ii. If the student will not retake that component of the GEE, GEE remediation will not be provided.
 - iii. If the student will retake that component of the GEE, the student will be provided GEE remediation.
 - b. The student has completed at least 12 years of school or has reached the age of 22 (not to include students younger than 16).
 - c. The student has met attendance requirements according to *Bulletin 741*.
 - d. Transition planning for the student has been completed and documented.

e. A body of evidence exists to document that the student had access to and progressed in the general curriculum, to include at a minimum the Louisiana Content Standards in the areas of English/language arts, mathematics, science, and social studies and the foundation skills.

f. A body of evidence exists to document that the student has developed vocational competencies.

Change of Placement See §448 and §519.A of these Regulations.

Child Search Coordinator is the LEA employee responsible for the child-search and child-identification activities, including those of locating the student suspected of having a disability. Child-search in these Regulations equates to child-find in IDEA.

Combination Self-Contained and Resource Classroom is an alternative education placement in which the same teacher provides special education instruction for students who receive instruction in various special education alternative placements. These placements include self-contained, resource, and regular classes.

Community-Based Instruction is teaching and learning functional skills and activities in the community setting in which these activities would typically occur.

Community-Based Vocational Training is job training for high school students who train in real-work sites/local businesses, without pay, with training/support/supervision and/or follow-along provided by trained personnel from the LEA.

Confidentiality of Information involves the storage, disclosure to third parties, retention, and destruction of personally identifiable information.

Consent means that:

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication;

2. the parent understands and agrees in writing to carry out the activity for which his or her consent is sought; the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. the parent understands that granting of consent is voluntary on the part of the parent and may be revoked at any time; if a parent revokes consent, that revocation is not retroactive (i.e., does not negate an action that occurred after the consent had been given and before the consent was revoked).

Controlled Substance means a drug or other substance identified under schedules I, II, III, IV, or V. in section 202(c) of the Controlled Substances Act (21 U.S.C. 812 (c)).

Counseling Services means services provided by qualified social workers, psychologists, guidance counselors, or otherwise qualified personnel.

Day means calendar day unless otherwise indicated as business day or school day.

Deaf-Blindness is concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

Deafness See Hearing Impairment.

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Due Process See §507 of these Regulations.

Developmental Delay is a disability in which students, ages three through eight, are identified as experiencing developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development or adaptive development.

Disability See Student with a Disability.

Early Identification and Assessment of Disabilities in Students as a related service, means the implementation of a formal plan for identifying a disability as early as possible in a student's life.

Education Records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

Educational Diagnostic Services include:

1. identifying special needs of students by providing consultation and collaboration with teachers, school administrators, students and parents, classroom observations and academic support services;

2. preventing educational problems through early identification of at-risk students;

3. consulting with teachers and other school staff members in planning, implementing, and evaluating school programs and strategies to meet the educational needs of individuals and groups of students;

4. designing interventions that address the academic needs of specific students to increase success in the academic setting;

5. administering, analyzing and interpreting informal and formal tests that will assist in identifying educational strengths and/or weaknesses in students who may need special education and related services; and

6. working as part of a multidisciplinary team to assess the educational, psychological, social and health needs of individual students.

Emotional Disturbance means a condition characterized by behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance. Performance includes academic, social, vocational or personal skills. Such a disability is more than a temporary, expected response to stressful events in the environment; it is consistently exhibited in two different settings; and it persists despite individualized intervention within general education and other settings. Emotional disturbance can co-exist with other disabilities. This classification does not include children/youth who are socially maladjusted, unless it is determined that they also meet the criteria for Emotional Disturbance.

Educational Service Agency means a regional public multiservice agency that is authorized by state law to develop, manage, and provide services or programs to LEAs and that is recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the state. This definition includes any other public institution or agency having administrative control and direction over a public elementary or secondary school and

includes entities that meet the definition of an intermediate educational unit.

Equipment means machinery, utilities, built-in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

Excess Cost means those costs that are in excess of the average annual per student expenditure in a LEA during the preceding school year for an elementary or secondary school student, as may be appropriate.

Evaluation is a multidisciplinary evaluation of a child/student, ages birth through twenty-one years, in all areas of suspected disability through a systematic process of review; examination; interpretation; and analysis of screening data, developmental status, intervention efforts, interviews, observations, and test results, as required; and other assessment information relative to the predetermined criteria as defined in the *Pupil Appraisal Handbook*.

Evaluation Coordinator is the pupil appraisal person who, in addition to serving as an examiner in the individual evaluation, is assigned the responsibilities described in §433 for a particular student.

Extended School Year (ESY) Services is the provision of special education and related services to students with disabilities beyond the normal school year of the LEA. All students (ages three through twenty-one) classified as having a disability according to the *Pupil Appraisal Handbook* with a current evaluation and IEP are to be screened annually by the ESYP screening date to determine eligibility for ESYP. Services are to be provided in accordance with the student's IEP once eligibility is determined. (Refer to the *Extended School Year Program Handbook*.)

Free Appropriate Public Education (FAPE) means special education and related services that are provided at public expense, under public supervision and direction, and without charge; that meet the standards of the Department; that include preschool, elementary school, or secondary school education in the state; and that are provided in conformity with an IEP.

Foster Parent. See *Parent*.

Generic Class is an instructional setting (self-contained or resource).

1. In accordance with the level of support needed, students with disabilities may be placed as follows:

a. mild/moderate class consisting of mild to moderate impairments which include mental disabilities, autism, specific learning disabilities, emotional disturbances, orthopedic impairments, other health impairments, speech or language impairments, or traumatic brain injury; or

b. severe/profound class consisting of moderate, severe to profound impairments which include mental disabilities, autism, multiple disabilities, deaf-blindness, emotional disturbance, or traumatic brain injury.

2. The instruction is provided by a special education teacher with appropriate certification as specified in *Bulletin 746*.

3. The pupil/teacher ratios established in Chapter 10 of these Regulations are used.

4. The generic class meets the other requirements of the categorical self-contained or resource class.

Hearing Impairment means an impairment in hearing, whether permanent or fluctuating, that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, and that it adversely affects a student's educational performance. It includes students who are deaf or hard-of-hearing or who have unilateral hearing loss or high frequency hearing loss

Home or Hospital Instruction refers to alternative education placements on the continuum for the provision of special education to a student with a disability in the student's home environment or in a hospital, based on an IEP by a teacher with appropriate certification according to the pupil/teacher ratio established in Chapter 10 of these Regulations.

Homeless or Homeless Individual refers to

1. an individual who lacks a fixed, regular, and adequate nighttime residence; and

2. an individual who has a primary nighttime residence that is:

a. a supervised, publicly or privately operated, shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

b. an institution that provides a temporary residence for individuals intended to be institutionalized; or

c. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings such as a camp ground, abandoned buildings and cars;

d. substandard housing which includes no heat, indoor plumbing, running water or means of cooking or storing food;

e. crowded or undesirable living conditions in which two or more families live together, (called doubled-up or doubling-up) because they have no place of their own to live.

IEP Team. See §441 of these Regulations.

Illegal Drug means a controlled substance, but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any provision of Federal law.

Include means that the items named are not all of the possible items that are covered, whether like or unlike the one named.

Independent Educational Evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student in question. (See §503 of these Regulations.)

Individualized Education Program means a written statement developed, reviewed, and revised in a meeting in accordance with §440-445 for each student with a disability.

Individualized Family Service Plan (IFSP) is a written plan for providing early intervention services for ChildNet eligible children and their families. The determination of the most appropriate early intervention services - including any modifications in placement, service delivery, service

providers or early intervention services - is accomplished through the development of the IFSP. The IFSP shall:

1. be developed jointly by the family and appropriate qualified personnel, including family service coordinators involved in the provision of early intervention services;
2. be based on the multidisciplinary evaluation and assessment of the child and family;
3. include the services necessary to enhance the development of the child and the capacity of the family to meet the special needs of their child;
4. continue until the child transitions out of early intervention, either to other appropriate service providers at age three, or at such time that the family and multidisciplinary professionals determine that services are no longer necessary; or the family no longer desires early intervention services;
5. identify the location of the early intervention services to be provided in natural environments, including the home and community settings, in which children without special needs would participate.

If there is a dispute between agencies regarding the development or the implementation of the IFSP, the Lead Agency is responsible for taking the necessary actions to resolve the dispute or assign responsibility for developing or implementing the IFSP.

Infants and Toddlers with Disabilities are children between the ages of birth and three years of age who have been determined eligible for early intervention services according to the *Pupil Appraisal Handbook*.

Instruction in Regular Class is an alternative education placement for eligible students with disabilities who receive special education and related services less than twenty-one percent of the school day outside the regular classroom.

Interagency Agreement means an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed. The statement shall be drawn up to be consistent with the mandatory provision of Chapter 8 of these Regulations.

Interim Alternative Educational Setting See §519.F of these Regulations.

Interpreter Services means the facilitation of communication within an instructional environment via an enhanced visual and/or tactile mode between and among hearing impaired and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode.

Least Restrictive Environment means the educational placement of a student with a disability in a manner consistent with the Least Restrictive Environment Requirements in §446. of these Regulations.

LEA means a public board of education or other public authority legally constituted within the state for either administrative control or direction of or to perform a service function for public elementary or secondary schools in a city, parish, school district, or other political subdivision of the state. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school including a public charter school that has been established as an LEA under state law.

Maintenance of Effort See §493.C of these Regulations.

Manifestation Determination Review - See §519.G of these Regulations.

Medical Services as a related service, means services for diagnostic and evaluation purposes provided by a licensed physician to determine a student's medically related disability that results in the student's need for special education and related services.

Mental Disability refers to substantial limitations in present functioning. It is characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the following applicable skill areas: communication, home living, community use, health and safety, leisure, self-care, social skills, self-direction, functional academics, and work. Mental disabilities are manifested before age eighteen.

Multiple Disabilities are concomitant impairments (such as mental disability-blindness, orthopedic impairment - deafness, autism - orthopedic impairment, or emotional disturbance - mental disability), the combination of which causes such severe educational problems that the student cannot be accommodated in a special education program solely for one of the impairments. This term does not include deaf-blindness.

Native Language when used with reference to an individual of limited English proficiency, means the language normally used by that individual, or in the case of a student, the language normally used by parents of the student. In all direct contact with the student, including the evaluation of the student, the language is the one normally used by the student in the home or learning environment. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, braille, or oral communication).

Nonacademic and Extracurricular Activities See §446.A.10. of these Regulations.

Noncategorical Preschool is a disability in which students three years through age five, but not enrolled in a state-approved kindergarten, are identified as having a disabling condition which is described, according to functional or developmental levels, as mild/moderate or severe/profound.

Occupational Therapy as a related service, means services, as defined in the *Pupil Appraisal Handbook*, provided by a qualified Occupational Therapist.

Orientation and Mobility Training as a related service, means services provided to blind or visually-impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home and community. This service includes teaching students, as appropriate:

1. spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);
2. to use the long cane to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision;
3. to understand and use remaining vision and distance low vision aids; and
4. other concepts, techniques, and tools.

Orthopedic Impairment means a severe orthopedic impairment that adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member); impairments caused by disease (e.g., poliomyelitis, bone tuberculosis); and disabilities from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

Other Health Impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment; the impairment is due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, ventilator assistance, or attention deficit disorder or attention deficit hyperactivity disorder; and adversely affects a student's educational performance.

Paraeducator (Teacher-Aide) is a person who assists in the delivery of special educational services under the supervision of a special education teacher or other professional who has the responsibility for the delivery of special education services to students with disabilities and who has all of the following qualifications:

1. is at least 20 years of age;
2. possesses a high school diploma or its equivalent; and
3. has taken a nationally validated achievement test and scored a level of achievement equivalent to the normal achievement level of a tenth grade student.

Paraeducator Training Unit is a setting that may be used for the training of self-help skills (toilet training, dressing skills, grooming skills, feeding skills, and pre-academic readiness activities) to students with severe or low incidence disabilities or preschool students. A school-aged unit shall be made up of no more than six paraeducators. A preschool unit shall be made up of no more than four paraeducators. All units shall be supervised directly by a certified special education teacher.

Parent means a natural or adoptive parent of a child; a guardian, but not the state if the child is a ward of the state; a person acting in the place of a parent such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare; or a surrogate parent who has been appointed in accordance with §516. A foster parent may act as a "parent" under these Regulations when the natural parents' authority to make educational decisions on the child's behalf has been extinguished under state law; and when the foster parent has an ongoing, long-term parental relationship with the child, is willing to make the educational decisions required of parents under these Regulations, and has no interest that would conflict with the interest of the child. Louisiana Law requires that the rights and responsibilities of a parent established by these Regulations shall be exercised by the student with a disability who attains the age of eighteen years, unless such student has been interdicted or determined to be in continuing minority by a court order of the state of Louisiana and taking into consideration the student's type and severity of disability in accordance with §516 of these Regulations.

Parent Counseling and Training as a related service, means assisting parents in understanding the special needs of their child, providing parents with information about child development, and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

Participating Agency for transition purposes, is a state or local agency, other than the LEA that is responsible for a student's education and that is financially and legally responsible for providing transition services to the student.

Participating Agency for confidentiality purposes, means any agency or institution that collects, maintains, or uses personally identifiable information, or any agency or institution from which information is obtained under these Regulations.

Personally Identifiable means that information - includes the name of the student, the student's parent, or other family member; the address of the student; a personal identifier, such as the student's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

Physical Education means the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual or group games or sports (including intramural and lifetime sports.) The term *physical education* includes special physical education, adapted physical education, movement education and motor development.

Physical Therapy as a related service means services, as defined in the *Pupil Appraisal Handbook*, provided by a qualified physical therapist.

Prior Notice See §504 of these Regulations.

Psychological Services as a related service, includes:

1. administering psychological and educational tests and other assessment procedures;
2. interpreting assessment results;
3. obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
4. consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, and behavioral evaluations;
5. planning and managing a program of psychological services, including psychological counseling for students and parents; and
6. assisting in developing positive behavior intervention strategies.

Public Agency includes the SEA, LEAs, ESAs, public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the state that are responsible for providing education to students with disabilities.

Public Charter School See §403 of these Regulations.

Public Expense means that the LEA either pays for the full evaluation when an independent educational evaluation is being conducted or ensures that the evaluation is otherwise provided at no cost to the parent.

Pupil Appraisal Personnel means personnel who meet the certification requirements for school personnel for such positions and who are responsible for the delivery of pupil

appraisal services included in §411-436 of these Regulations.

Qualified Personnel means personnel who have met state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education and related services.

Recreation as a related service, means the assessment of leisure function, therapeutic recreation services, recreation programs in schools and community agencies, and leisure education.

Rehabilitation Counseling as a related service, means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. It also includes vocational rehabilitation services provided to a student with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

Related Services means transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education. Related services include speech/language pathology and audiological services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in students, counseling services including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parental counseling and training. For infants and toddlers with disabilities, all services are considered direct services with the exception of health services, which is also considered a related service.

Resource Departmentalized is an instructional setting in which students receive instruction from more than one special education teacher and in which each teacher teaches only a single content or subject matter area. The pupil/teacher ratio shall be consistent with those listed in Chapter 10 of these Regulations. Instruction shall be provided for not more than the maximum allowed for that disability in a self-contained class at any given period.

Resource Room is a type of alternative education placement for special education and related services; it has been designed or adapted as a location where students with disabilities may receive all or a part of the special education required by their IEPs, and in which all of the following exist:

1. the pupil/teacher ratios established in Chapter 10 are used;
2. only students with disabilities are enrolled;
3. instruction is provided for not more than twelve students whose disabilities are not severe or low incidence impairments for any one hour of instructional time;
4. special education is provided by a teacher certified either generically or specifically in the area of the disability for which special education is provided; and
5. students receive special education and related services for at least 21 percent but no more than 60 percent of the school day outside the regular classroom.

School Building Level Committee is a committee of at least three school level staff members; the committee may be identified as an SBLC, SAT, STAT, etc., at the discretion of the LEA. The committee shall be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included, such as the guidance counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a decision-making group that meets on a scheduled basis to problem-solve concerns from teachers, parents, or other professionals on individual students who are experiencing difficulty in school due to academic and/or behavior problems. In most instances, for enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal for an individual evaluation.

School Day means any day, including a partial day, that students are in attendance at school for instructional purposes. *School day* has the same meaning for all students in school, including students with and without disabilities.

School Health Services as a related services means service, as defined in the *Pupil Appraisal Handbook*, provided by a certified school nurse or other qualified person.

Self-Contained Departmentalized is an instructional setting in which students receive instruction from more than one special education teacher and in which each teacher teaches only one content area or subject matter. Pupil/teacher ratios shall be consistent with those listed in Chapter 10 of these Regulations. Instruction shall be provided for not more than the maximum number allowed for that disability in a self-contained class at any given period.

Self-Contained Special Education Classroom is a type of alternative education placement in which special education instruction and related services are provided outside the regular classroom more than sixty percent of the school day.

Severe Language Disorder is a type of communication impairment resulting from any physical or psychological condition which seriously interferes with the development, formation, and expression of language and which adversely affects the educational performance of the student. This category does not include students whose communication impairment is primarily due to mental disability, autism, or a hearing impairment. This disability applies to students identified as such prior to 1999.

Severe or Low Incidence Impairments may include moderate, severe and profound mental disabilities, multiple disabilities, autism, blindness, deafness, deaf-blindness, emotional disturbances, severe language disorders, orthopedic impairments, and traumatic brain injury, dependent upon the intensity of the student's individual needs.

Significant Change of Educational Placement see ' 448 of these regulations.

Social Work Services in Schools as a related service, includes preparing a social or developmental history on a student with a disability; group and individual counseling with the student and family; working in partnership with parents and others on those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program; and

assisting in developing positive behavioral intervention strategies.

Special Education means specially designed instruction, at no cost to the parent, to meet the unique needs of the student with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education. If they meets the definition of special education, the term also includes speech-language pathology services, travel training and vocational education.

Specially Designed Instruction means adapting, as appropriate to the needs of an eligible student under these Regulations, the content, methodology or delivery of instruction to address the student's unique needs that result from the student's disability and to ensure access of the student to the general curriculum, so that he or she can meet the educational standards that apply to all students within the jurisdiction of the LEA.

Specific Learning Disability is a severe and unique learning problem characterized by significant difficulties in the acquisition, organization, or expression of specific academic skills or concepts. This learning problem is typically manifested in school functioning as significantly poor performance in such areas as reading, writing, spelling, arithmetic reasoning or calculation, oral expression or comprehension, or the acquisition of basic concepts. The term includes such conditions as attention deficit disorders, perceptual disabilities or process disorders, minimal brain dysfunction, dyslexia, developmental aphasia, or sensorimotor dysfunction, when consistent with the criteria in the *Pupil Appraisal Handbook*. The term does not apply to students who have learning problems primarily the result of visual, hearing, or motor impairments; of mental disabilities; of an emotional disturbance; of lack of instruction in reading or mathematics; of limited English proficiency; or of economic, environmental, or cultural disadvantage.

Speech or Language Impairment means a communication disorder- such as stuttering, impaired articulation, a language impairment, or a voice impairment - that adversely affects a student's educational performance.

Speech or Language Pathology as a related service, includes identification of students with speech or language impairments; diagnosis and appraisal of specific speech or language impairments; referral for medical or other professional attention necessary for the habilitation of speech or language disorders; provisions of speech and language services for the habilitation of communication or prevention of communication impairments; and counseling and guidance of parents, students, and teachers regarding speech and language impairments.

Student with a Disability means a student evaluated in accordance with §430 - 436 of these Regulations and determined according to the *Pupil Appraisal Handbook* as having one of the disability categories and, by reason of that disability, needing special education and related services.

Supplementary Aids and Services means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate.

Surrogate Parent See §516. of these Regulations.

Transition Services are a coordinated set of activities for a student with a disability; they are designed within an outcome-oriented process that promotes movement from school to post-school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; they shall be based upon the individual student's needs, taking into account the student's preferences and interests and shall include instruction, related services, community experiences, the development of employment and other post school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

Transportation as a related service, means transportation required to assist a student with a disability to benefit from special education and includes:

1. travel to and from school; between schools and sites;
2. travel in and around school buildings; and
3. specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a student with a disability.

(Nonacademic and extracurricular activities may include transportation.)

Traumatic Brain Injury is an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both; the injury adversely affects a student's educational performance. The term applies to open or closed-head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgement; problem-solving; sensory, perceptual, or motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Travel Training means providing instruction, as appropriate, to students with significant cognitive disabilities, and any other students with disabilities who require this instruction to enable them to develop an awareness of the environment in which they live and to learn the skills necessary to move effectively and safely from place to place within that environment (such as, in school, in the home, at work, and in the community).

Visual Impairment Including Blindness means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both blindness and partial sight.

Vocational Education means organized educational programs directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

Weapon has the meaning given the term *dangerous weapon* under paragraph (2) of the first subsection (g) of section 930 of Title 18, United States Code.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:679 (April 2000).

§905. - 999. Reserved

Chapter 10 State Program Rules for Special Education

§1001. Pupil/Teacher, Pupil/Speech/Language Pathologist, and Pupil Appraisal Ratios for Public Education

A. In providing services to all identified students with disabilities, the number of students in each instructional setting shall not exceed the following numbers.

1. Self-contained classrooms	Preschool	Elementary	Secondary
a. Autism	4	4	4
b. Blindness	7	9	9
c. Deafness	7	9	9
d. Deaf-blindness	4	4	4
e. Emotional Disturbance		8	8
f. Hard of Hearing	11	15	17
g. Mental Disability			
i. Mild		16	16
ii. Moderate		11	17
iii. Severe		9	9
iv. Profound		9	9
h. Mild/Moderate (Generic)		16	16
i. Multiple Disabilities	7	9	9
j. Noncategorical Preschool			
i. Mild/Moderate Functioning			
1. Full Day	11		
2. Half Day	16		
ii. Severe/Profound Functioning			
1. Full Day	7		
2. Half Day	14		
k. Other Health Impairment		17	17
l. Orthopedic Impairment	7	11	13
m. Partial Seeing	11	15	17
n. Speech or Language Impairment	7	9	9
o. Severe/Profound (Generic)		9	9
p. Specific Learning Disability		13	13
q. Traumatic Brain Injury	7	9	9

2. Paraeducator Training Units

a. **Preschool-Aged Students:** One teacher and two paraeducators shall be appointed for the initial six preschool students. For students functioning within the severe/profound range, there shall be one additional paraeducator for any additional group of three, not to exceed two additional groups of such students. For students functioning within the mild/moderate range, the additional paraeducators shall be added for each additional group of four. The maximum number of students shall not exceed twelve per unit.

b. **School-Aged Students:** One teacher and two paraeducators shall be appointed for the initial six students with severe/profound or low incidence disabilities. There shall be one additional paraeducator for any additional group of three, not to exceed four additional groups of such students. The maximum number of students shall not exceed eighteen per unit.

3. **Resource Rooms (Generic or Categorical) and Itinerant Instruction Programs (per teacher)**

- a. Students with severe or low incidence impairments/disabilities 10
- b. All other students with disabilities 27

Because of the travel requirements of the program, this number may be reduced by the LEA to 10-19 when instruction is provided to all other students with disabilities in at least two different schools.

4. **Combination Self-contained and Resource Classrooms**

- a. Students with severe/low incidence impairments/disabilities 12
- b. All other students with disabilities 20

5. **Hospital/Homebound Instruction (per teacher)**

- a. Itinerant 10
- b. One Site 17

6. **Preschool Intervention Settings (Parent/Child Training)**

- a. Intervention in the Home 15
- b. Intervention in a School or Center 19

7. **Infant/Toddler Settings**

- a. Center based programs (per teacher) 12
- b. Natural Environment (visits per week) 15-20

8. **Adapted Physical Education Instruction (per teacher)**

a. In caseloads exceeding 35 students, the total number of students identified as having a severe motor deficit shall not exceed 17.

- b. Itinerant Instruction (Two or more schools) 40

9. **Instruction in Regular Classes.** This ratio refers to the caseload of special education teachers who provide instruction to students with disabilities in general education settings.

- a. Students with severe or low incidence impairments/disabilities 9
- b. All other students with disabilities 16

10. **Self-contained or Resource Departmentalized Settings**

	Elementary	Secondary
a. Autism	15	15
b. Blindness	33	33
c. Deafness	33	33
d. Deaf-blind	15	15
e. Emotional Disturbance	30	30
f. Hard of Hearing	58	63
g. Mental Disability		
i. Mild	63	63
ii. Moderate	43	63
iii. Severe	33	33
iv. Profound	33	33
h. Mild/Moderate Generic	58	58
i. Multiple Disabilities	33	33
j. Other Health Impairment	63	63
k. Orthopedic Impairment	43	45
l. Partial Seeing	58	63
m. Speech or Language Impairment	33	33
n. Severe/Profound Generic	33	33
o. Specific Learning Disability	50	58
p. Traumatic Brain Injury	33	33

11. **Paraeducators** may be hired to meet the unique needs of students with disabilities.

12. **Speech/language pathologists** in LEAs shall be employed at the rate of one for each 30 (or major fraction

thereof) students receiving speech therapy. In determining the number of pupils, the following criteria shall be used.

- a. Each student shall receive speech therapy.
- b. Each speech/language pathologist shall be assigned a minimum of one student in speech therapy and shall not be assigned more than 79 points.
- c. Each hour per week of pupil appraisal assessment services, supervision of speech/language pathologists who hold restricted license, or supervision of speech pathology assistants shall equal one point for the purpose of determining the caseload. Assignment of these activities shall be made by the LEA supervisor.
- d. The caseload shall be determined according to the following guidelines.

Service Type	Number of Points Determining Caseload
Each hour of assessment	1
Each hour of supervision	1
Each hour of consultation	1
Each student receiving speech therapy	1

13. Pupil appraisal members shall be employed by LEAs at the rate listed below. LEAs may substitute one pupil appraisal for another provided that all pupil appraisal services are provided in accordance with these Regulations and the *Pupil Appraisal Handbook*.

	Public School Ratios Based on Membership	Private School Ratios Based on Membership
Educational Diagnosticians	1:2,400 or major fraction thereof	1:3,500 or major fraction thereof
School Psychologists	1:2,400 or major fraction thereof	1:3,500 or major fraction thereof
Social Workers	1:3,200 or major function thereof	1:4,500 or major function thereof

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:687 (April 2000).

Weegie Peabody
Executive Director

0004#039

RULE

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

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.301, 705, 805, 907)

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

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance, Higher Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions**

Full-Time Student

- a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;
- b. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining 8 quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends. (see 705.A.7., 705.D., 805.A.7., and 907.A.2. for more expanded TOPS requirements);
- c. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;
- d. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:688 (January 2000).

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

§705. Maintaining Eligibility

A.1. - 6. ...

7. by the end of each academic year, earn a total of at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during summer sessions or intersessions or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

A.8. - C. ...

D. It is the student's responsibility to ensure that all requirements necessary to maintain award eligibility are completed. The Office of Student Financial Assistance shall only consider the official report of grades and hours earned which are received from the school attended. Students should be aware that individual school policies may affect the reporting of grade point average and hours earned for the academic year and accordingly, should become familiar with these policies.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:688 (January 2000).

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A.1. - 6. ...

7. By the end of each academic year, earn at least 24 credit hours during the fall and spring semesters or fall, winter and spring quarters, or complete an average of 30 clock hours per week, as determined by totaling the earned hours reported by the institution for each semester in the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during summer sessions or intersessions or by advanced placement course credit. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; (See also §705.D) and

A.8. - 9. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998), LR 25:1091 (June 1999), LR 26:689 (January 2000).

Chapter 9. TOPS Teacher Award

§907. Maintaining Eligibility

A.1. ...

2. by the end of each academic year, earn a total of at least 24 hours college credit during the fall and spring semesters or fall, winter and spring quarters, as determined by totaling the earned hours reported by the institution for each semester in the academic year. These hours shall not include remedial course work nor hours earned during summer sessions or intersessions or by advanced placement course credits; (See also §705.D) and

A.3. - B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 23:1650 (December 1997), repromulgated LR 24:638 (April 1998),

amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:689 (January 2000).

Jack L. Guinn
Executive Director

0004#005

RULE

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

**Tuition Opportunity Program for Students
(TOPS) Eligibility
(LAC 28:IV.703)**

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

Title 28

EDUCATION

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

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

§703. Establishing Eligibility

A. - A.5.a.i. ...

ii. for purposes of satisfying the requirements of §703.A.5.a.i., above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History

*Applied Mathematics III was formerly referred to as Applied Geometry

or

A.5.b. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:689 (April 2000).

Jack L. Guinn
Executive Director

0004#004

RULE

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

Incorporation by Reference of 40 CFR Part 63
(LAC 33:III.5122)(AQ198)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.5122 (Log #AQ198).

This rule restores a previously modified paragraph in 40 CFR 63.440(d)(1), which added a state deadline in accordance with R.S. 30:2060(N)(3). This modified paragraph was adopted in AQ177 on December 20, 1998, but was not included in an update to the incorporation by reference in AQ193 on August 20, 1999. The basis and rationale for this rule are to restore the previously adopted change to 40 CFR 63, Subpart S and make the regulation conform with R.S. 30:2060(N)(3).

This rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

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

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program
Subchapter 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, 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	Subpart/Appendix Heading
* * * [See Prior Text in Subpart A - Subpart R]	
Subpart S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry. In Sec. 63.440(d)(1), the requirement is modified to read, "Each kraft pulping system shall achieve compliance with the pulping system provisions of Sec. 63.443 for the equipment listed in Sec. 63.443(a)(1)(ii) -(v) as expeditiously as practicable, but in no event later than December 20, 2004, and the owners and operators shall establish dates, update dates, and report the dates for the milestones specified in Sec. 63.455(b)."
* * * [See Prior Text in Subpart T - Appendix D]	

[See Prior Text in B]

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

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

James H. Brent, Ph.D.
Assistant Secretary

0004#024

RULE

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

Advertising and Soliciting by Dentists
(LAC 46:XXXIII.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.301 "Advertising and Soliciting by Dentists." No preamble has been prepared.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - I. ...

J. Advertisement of Fees and Discounted Services

1. An appropriate disclosure regarding advertised fees is necessary to protect the public so all procedures or devices

which are advertised with fees must adequately describe the procedure or device in such a way that a layperson is not misled. Proof of customary fee must be available if discounted fees are advertised, and the true fee from which the discount is taken must be in the advertisement also.

2. - 3. ...

K. ...

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000).

C. Barry Ogden
Executive Director

0004#025

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Expanded Duty Dental Assistant Certification
(LAC 46:XXXIII.506)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry rescinds LAC 46:XXXIII.506 "Dental Assisting National Board Examinations For Expanded Duty Dental Assistant Certification." No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 5. Dental Assistants

§506. Dental Assisting National Board Examinations for Expanded Duty Dental Assistant Certification

Repealed

C. Barry Ogden
Executive Director

0004#032

RULE

Department of Health and Hospitals Board of Dentistry

Licenses, Permits, and Examinations of Dental Hygienists
(LAC 46:XXXIII.419)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly

R.S. 37:760(8) and R.S. 37:795, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.419 "Licenses, Permits, and Examinations." No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 4. Fees and Costs

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits, and Examinations (Dental Hygienists)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

- 1. Examination and licensing of dental hygienist applicant \$250.00
- 2. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000).

C. Barry Ogden
Executive Director

0004#033

RULE

Department of Health and Hospitals Board of Dentistry

Licenses, Permits, and Examinations of Dentists
(LAC 46:XXXIII.415)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8) and R.S. 37:795, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.415 "Licenses, Permits, and Examinations." No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations (Dentists)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

- 1. Examination and licensing of dental applicant 600.00
- 2. - 12. ...
- 13. Application and permit for mobile or movable dental office 250.00
- 14. Yearly renewal of mobile or movable dental office permit 400.00

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health & Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000).

C. Barry Ogden
Executive Director

0004#034

RULE

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

**Requirements of Applicants for Licensure by Credentials
(LAC 46:XXXIII.306)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.306, "Requirement of Applicants for Licensure by Credentials." No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

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

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

1. - 18. ...

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

A.20. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000).

C. Barry Ogden
Executive Director

0004#036

RULE

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

**Requirements of Applicants for Licensure by Credentials
(LAC 46:XXXIII.706)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.706 "Requirements of Applicants for Licensure by Credentials."

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 7. Dental Hygienists

**§706. Requirements of Applicants for Licensure by
Credentials**

A.- A.17 ...

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

A.19. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000).

C. Barry Ogden
Executive Director

0004#037

RULE

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

Board Member Per Diem (LAC 46:XLIX.307)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators adopts the following rule regarding per diem payments to board members of the Board of

Examiners of Nursing Facility Administrators. This rule shall be enforced retroactively to September 7, 1999. This rule complies with and is enabled by R.S. 37:2504.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 3. Board of Examiners

§307. Board Member Per Diem

Board members shall be paid \$75 per day during which board business is conducted. This rule shall not apply to board members who represent agencies of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:2504 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing facility Administrators, LR 26:693 (April 2000).

Kemp Wright
Executive Director

0004#038

RULE

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

**Medications Used in the Treatment of Noncancer-Related
Chronic or Intractable Pain (LAC 46:XLV.6915-6923)**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B), and the provisions of the Administrative Procedure Act, has amended its existing administrative rules governing physician prescription, dispensation, administration or other use of medications for the treatment of noncancer-related chronic or intractable pain, LAC 46:XLV, Subpart 3, Chapter 69, §§6915-6923. The rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 69. Prescription, Dispensation and Administration of Medications

Subchapter B. Medications Used in the Treatment of Noncancer-Related Chronic or Intractable Pain

§6915. Scope of Subchapter

The rules of this subchapter govern physician responsibility for providing effective and safe pain control for patients with noncancer-related chronic or intractable pain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:693 (April 2000).

§6917. Definitions

A. As used in this subchapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified:

Board the Louisiana State Board of Medical Examiners.

Chronic Pain pain which persists beyond the usual course of a disease, beyond the expected time for healing from bodily trauma, or pain associated with a long term-incurable or intractable medical illness or disease.

Controlled Substance any substance defined, enumerated or included in federal or state statute or regulations 21 C.F.R. §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

Diversion the conveyance of a controlled substance to a person other than the person to whom the drug was prescribed or dispensed by a physician.

Intractable Pain a chronic pain state in which the cause of the pain cannot be eliminated or successfully treated without the use of controlled substance therapy and, which in the generally accepted course of medical practice, no cure of the cause of pain is possible or no cure has been achieved after reasonable efforts have been attempted and documented in the patient's medical record.

Noncancer-Related Pain that pain which is not directly related to symptomatic cancer.

Physical Dependence the physiological state of neuroadaptation to controlled substance which is characterized by the emergence of a withdrawal syndrome if the controlled substance use is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by readministration of the controlled substance.

Physician physicians and surgeons licensed by the Board.

Protracted Basis utilization of any controlled substance for the treatment of noncancer-related chronic or intractable pain for a period in excess of 12 weeks during any 12-month period.

Substance Abuse (may also be referred to by the term **Addiction**) a compulsive disorder in which an individual becomes preoccupied with obtaining and using a substance, despite adverse social, psychological, and/or physical consequences, the continued use of which results in a decreased quality of life. The development of controlled substance tolerance or physical dependence does not equate with substance abuse or addiction.

Tolerance refers to the physiologic state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Controlled substance tolerance refers to the need to increase the dose of the drug to achieve the same level of analgesia. Controlled substance tolerance may or may not be evident during controlled substance treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:693 (April 2000).

§6919. General Conditions/Prohibitions

The treatment of noncancer-related chronic or intractable pain with controlled substances constitutes legitimate medical therapy when provided in the course of professional medical practice and when fully documented in the patient's medical record. A physician duly authorized to practice medicine in Louisiana and to prescribe controlled substances in this state shall not, however, prescribe, dispense, administer, supply, sell, give, or otherwise use for the purpose of treating such pain, any controlled substance unless done in strict compliance with applicable state and federal laws and the rules enumerated in this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6) and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:694 (April 2000).

§6921. Use of Controlled Substances, Limitations

A. Requisite Prior Conditions. In utilizing any controlled substance for the treatment of noncancer-related chronic or intractable pain on a protracted basis, a physician shall comply with the following rules:

1. Evaluation of the Patient. Evaluation of the patient shall initially include relevant medical, pain, alcohol and substance abuse histories, an assessment of the impact of pain on the patient's physical and psychological functions, a review of previous diagnostic studies, previously utilized therapies, an assessment of coexisting illnesses, diseases, or conditions, and an appropriate physical examination.

2. Medical Diagnosis. A medical diagnosis shall be established and fully documented in the patient's medical record, which indicates not only the presence of noncancer-related chronic or intractable pain, but also the nature of the underlying disease and pain mechanism if such are determinable.

3. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for controlled substance therapy. Such plan shall include documentation that other medically reasonable alternative treatments for relief of the patient's noncancer-related chronic or intractable pain have been considered or attempted without adequate or reasonable success. Such plan shall specify the intended role of controlled substance therapy within the overall plan, which therapy shall be tailored to the individual medical needs of each patient.

4. Informed Consent. A physician shall ensure that the patient and/or his guardian is informed of the benefits and risks of controlled substance therapy. Discussions of risks and benefits should be noted in some format in the patient's record.

B. Controlled Substance Therapy. Upon completion and satisfaction of the conditions prescribed in §6921.A, and upon a physician's judgment that the prescription, dispensation, or administration of a controlled substance is medically warranted, a physician shall adhere to the following rules.

1. Assessment of Treatment Efficacy and Monitoring. Patients shall be seen by the physician at appropriate intervals, not to exceed 12 weeks, to assess the efficacy of treatment, assure that controlled substance therapy remains indicated, and evaluate the patient's progress toward

treatment objectives and any adverse drug effects. Exceptions to this interval shall be adequately documented in the patient's record. During each visit, attention shall be given to the possibility of decreased function or quality of life as a result of controlled substance treatment. Indications of substance abuse or diversion should also be evaluated. At each visit, the physician should seek evidence of under treatment of pain.

2. Drug Screen. If a physician reasonably believes that the patient is suffering from substance abuse or that he is diverting controlled substances, the physician shall obtain a drug screen on the patient. It is within the physician's discretion to decide the nature of the screen and which type of drug(s) to be screened.

3. Responsibility for Treatment. A single physician shall take primary responsibility for the controlled substance therapy employed by him in the treatment of a patient's noncancer-related chronic or intractable pain.

4. Consultation. The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care, monitoring, documentation, and consultation with or referral to an expert in the management of such patients.

5. Medications Employed. A physician shall document in the patient's medical record the medical necessity for the use of more than one type or schedule of controlled substance employed in the management of a patient's noncancer-related chronic or intractable pain.

6. Treatment Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of history, physical and other examinations and evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, controlled substance and other medication therapy, informed consents, periodic assessments, and reviews and the results of all other attempts at analgesia which he has employed alternative to controlled substance therapy.

7. Documentation of Controlled Substance Therapy. At a minimum, a physician shall document in the patient's medical record the date, quantity, dosage, route, frequency of administration, the number of controlled substance refills authorized, as well as the frequency of visits to obtain refills.

C. Termination of Controlled Substance Therapy. Evidence or behavioral indications of substance abuse or diversion of controlled substances shall be followed by tapering and discontinuation of controlled substance therapy. Such therapy shall be reinitiated only after referral to and written concurrence of the medical necessity of continued controlled substance therapy by an addiction medicine specialist, a pain management specialist, a psychiatrist, or other substance abuse specialist based upon his physical examination of the patient and a review of the referring physician's medical record of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:727 (June 1997), amended LR 26:694 (April 2000).

§6923. Effect of Violation

Any violation of or failure of compliance with the provisions of this subchapter, §§6915-6923, shall be deemed a violation of R.S. 37:1285(A)(6) and (14), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:728 (June 1997), amended LR 26:695 (April 2000).

Delmar Rorison
Executive Director

0004#029

RULE

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

**Continuing Medical Education
Requirements for Physicians
(LAC 46:XLV.417, 419, 433-449)**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S.37:1270(A)(1), 1270(A)(8) and the provisions of the Louisiana Administrative Procedure Act, has amended its existing rules respecting the renewal and reinstatement of licensure, 46:XLV, Subpart 2, Chapter 4, §§417 and 419 and adopted rules providing continuing medical education requirements for physicians seeking the renewal and/or reinstatement of licensure, LAC 46:XLV, Subpart 2, Chapter 4, §§433-449.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

**Subchapter I. License Issuance, Termination,
Renewal and Reinstatement**

§417. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before the first day of the month in which the licensee was born, by submitting to the board a properly completed application for renewal, upon forms supplied by the Board, together with the renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the annual continuing medical education requirements prescribed by subchapter K of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:1280 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 26:695 (April 2000).

§419. Reinstatement of Expired License

A. ...

B. An applicant seeking reinstatement more than one year from the date on which his license expired shall demonstrate, as a condition of reinstatement, satisfaction of the continuing medical education requirements of §§433-449 of subchapter K of these rules for each year since the date of the expiration of licensure. As additional conditions of reinstatement the board may require:

B.1.-E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 14:86 (February 1988), LR 16:524 (June 1990), LR 22:213 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 26:695 (April 2000).

Subchapter K. Continuing Medical Education

§433. Scope of Subchapter

The rules of this subchapter provide standards for the continuing medical education ("CME") requisite to the renewal or reinstatement of licensure, as provided by §§417 and 419 of these rules and prescribe the procedures applicable to satisfaction and documentation of continuing medical education in connection with applications for renewal or reinstatement of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000).

§435. Continuing Medical Educational Requirement

Subject to the waiver of and exceptions to CME prescribed by §§445 and 447 and the special requirements attendant to initial renewal of licensure specified in §449, every physician seeking the renewal or reinstatement of licensure, to be effective on or after January 1, 2002, shall annually evidence and document, upon forms supplied by the Board, the successful completion of not less than 20 hours of board approved CME.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000).

**§437. Qualifying Continuing Medical Education
Programs**

A. Any program, course, seminar or other activity offering Category 1 CME shall be deemed approved for purposes of satisfying the continuing medical education requirements under this subchapter, if sponsored or offered by:

1. an organization or entity accredited by the Accreditation Council for Continuing Medical Education (ACCME);
2. a member board of the American Board of Medical Specialties;

3. the American Academy of Family Physicians (AAFP);
4. the American College of Obstetricians and Gynecologists (ACOG);
5. the American Osteopathic Association (AOA); or
6. an organization or entity accredited by the Louisiana State Medical Society or any other ACCME recognized state medical society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000).

§439. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing medical education requirements prescribed by §§433-449, shall be mailed with each application for renewal or reinstatement of licensure form mailed by the board pursuant to §§417 or 419. Such form shall be completed and delivered to the board with the physician's application.

B. Physicians will not be required to transmit documentation of compliance with continuing medical education requirements for renewal or reinstatement of licensure, unless requested by the board pursuant to §439.E.

C. A physician shall maintain a record or certificate of attendance for at least 4 years from the date of completion of the continuing medical education activity. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

1. program title;
2. sponsor's name;
3. physician's name;
4. inclusive date or dates and location of the CME event; and
5. documented verification of successful completion of 20 hours of Category 1 CME by stamp, signature, official or other proof acceptable to the board.

D. The board shall select for an audit of continuing medical education activities no fewer than 2 percent of the applicants for renewal or reinstatement each year. In addition, the board has the right to audit any questionable documentation of activities.

E. Verification of continuing medical education satisfying the requirements of this subchapter shall be submitted by a physician to the board within 30 days of the date of mailing of notification of audit or such longer period as the board may designate in such notification. A physician's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

F. Any certification of continuing medical education which is not approved by the board pursuant to §437 shall not be considered as qualifying for CME recognition by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§441. Failure to Satisfy Continuing Medical Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing medical education

requirements prescribed by these rules shall be given written notice of such failure by the board. Such notice shall be mailed to the most recent address of the licensee as reflected in the official records of the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which such license shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within such 90 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing medical education requirements;
2. the applicant's failure to satisfy the continuing medical education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §445; or
3. the applicant is exempt from such requirements pursuant to §447.

B. The license of a physician which has expired for nonrenewal or been revoked for failure to satisfy the CME requirements of §435 of these rules, may be reinstated pursuant to §419 upon written application to the board, accompanied by payment of the reinstatement fee required by §419, in addition to all other applicable fees and costs, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license was last issued or renewed, completed an aggregate of 20 hours of board approved CME.

C. The license of a physician which has expired, has not been renewed or been revoked for failure to meet the requirements of §449, or one which has expired, has not been renewed or revoked on more than one occasion for failure to satisfy the CME requirements of §435 of these rules shall be deemed in violation of R.S. 37:1285(A)(30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and R.S. 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§443. Falsification of Continuing Medical Education

Any licensee or applicant who falsely certifies attendance at and/or completion of the required continuing medical education requirements of §§433-449 shall be deemed in violation of R.S.37:1285(A)(3), (4), (13) and/or (30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§445. Waiver of Requirements

The board may, in its discretion, waive all or part of the CME required by these rules in favor of a physician who makes written request to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship or other similar extenuating circumstances

precluding the individual's satisfaction of CME requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§447. Exceptions to the Continuing Medical Education Requirements

A. Except as provided in §449, the CME requirements prescribed by this subchapter prerequisite to renewal or reinstatement of licensure shall not be applicable to a physician:

1. engaged in military service longer than one year's duration outside of Louisiana;
2. who has held an initial Louisiana license on the basis of examination for less than one year;
3. who has within the past year been certified or recertified by a member board of the American Board of Medical Specialties;
4. who is in a residency training program approved by the Board; or
5. who is a retired physician in accordance with §418 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000).

§449. CME Requirement for Initial Renewal of License

A. Effective on and after January 1, 2002, every physician seeking the initial renewal of medical licensure, whether such license was originally issued by the board on the basis of examination, reciprocity or reinstatement shall, as part of the continuing medical education required by this subchapter as a condition prerequisite to licensure renewal, evidence and document upon forms supplied by the board attendance at an orientation program sponsored and/or approved by the board.

B. The program required pursuant to §449.A shall be conducted at such locations, on such dates and at such times as may be designated by the board, shall consist of not less than two (2) hours in duration and involve such content, topic and structure as the Board may from time to time deem appropriate.

C. Notification of the dates, times and locations at which such programs will be offered, as well as the enrollment procedure, shall be mailed to the most recent address of each applicant subject to the requirements of §449.A as reflected in the official records of the board. A physician's failure to notify the board of a change of mailing address will not absolve the applicant of the requirement to attend a board sponsored/approved orientation program as a condition of approval of an initial request for licensure renewal.

D. A physician required to attend an orientation program pursuant to §449.A shall, for each hour of attendance as may be required by the board, be granted an hour-for-hour credit towards the annual CME requirement specified by §435.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000).

Delmar Rorison
Executive Director

0004#019

RULE

Department of Health and Hospitals Office of the Secretary

Breast Cancer Treatment Alternatives

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 40:5:40:1229.2, and 40:1299:23, the Department of Health and Hospitals, Office of the Secretary, proposes to promulgate regulations pertaining to written notification of breast cancer patients regarding treatment alternatives.

The proposed rule establishes the content of the standard written summary and the manner of distribution to physicians as required by Act 199 of the 1999 Regular Legislative Session.

In compliance with Act 1183 of the 1999 Regular Session, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Rule

- A. Content of the Standard Written Summary
 1. What you should know about treatment of breast cancer
 2. What is breast cancer? Breast cancer occurs when cells in the breast become abnormal and divide in an out-of-control manner.
- B. You should know:
 1. that there is no one right treatment for all women. Find out your options.
 - a. You can ask questions and write down or record your doctor's answers;
 - b. You do not have to decide overnight. You should start treatment within a couple of weeks of diagnosis;
 - c. Why any test or procedure is being done and what the risks are;
 - d. You can ask another doctor about your treatment choices (second opinion).
- C. Treating Breast Cancer
 1. There are four main ways to treat breast cancer: surgery, radiation therapy, chemotherapy and hormone therapy or any combination of these. The best for you will depend on:
 - a. size and of your tumor (lump);
 - b. if the cancer has spread (stage);
 - c. how your tumor reacts to certain hormones;
 - d. the type of genetic material in the cancer cells;
 - e. the rate the cells are growing;
 - f. your age and general health.

D. Surgery

1. There are two types of surgery for breast cancer:
 - a. breast-conserving surgery only part of the breast is removed; and
 - b. mastectomy removing the entire breast.

E. Breast-Conserving Surgery

Lumpectomy surgery that removes the tumor and some of the tissue around it.

Partial or Segmental Mastectomy the tumor, some tissue around it, and the lining over the chest muscle is removed.

- a. If you have breast-conserving surgery, you will also have radiation therapy to destroy any remaining cancer cells.
- b. For early breast cancer, breast-conserving surgery with radiation is as effective as mastectomy
- c. You may have a change in breast shape, especially if the tumor was large.

F. Mastectomy the removal of the breast.

1. This may be your best option if you have more than one tumor or a large tumor. The several types of mastectomies which vary in how much tissue is removed.
2. If the tumor is large or there are several abnormal areas in the breast, a mastectomy and reconstruction may have better cosmetic results than a lumpectomy.
3. You should ask about surgery to rebuild the breast.

G. Lymphadenectomy

1. Lymphadenectomy is the removal of lymph nodes in the armpit to which the cancer may have spread. With mastectomy, the lymph nodes are removed at the same time. With breast-conserving surgery, lymph nodes may be removed in another operation.

H. Radiation Therapy

1. Radiation therapy is used in addition to surgery. It uses high-energy rays to kill cancer cells that may be in the breast and lymph nodes after surgery. Radiation therapy is generally considered necessary after breast-conserving surgery, but may be needed after mastectomy.
2. With radiation, breast-conserving surgery for early breast cancer is as effective as mastectomy.
3. Radiation Therapy can involve daily visits for six weeks.
4. Radiation to the breast does not cause hair loss, vomiting, or diarrhea, but has local side effects you should ask about. These local side effects are usually well-tolerated.

I. Chemotherapy

1. Chemotherapy means "treatment with drugs." Many drugs are used for breast cancer. Your doctor will suggest the drugs most effective for your cancer type.
2. With surgery and radiation, chemotherapy may make treatment more successful.
3. Side effects depend on the drugs, but can include loss of appetite, nausea, vomiting, diarrhea, hair loss, mouth sores, constipation, weight change, lack of energy, increased chance of infection, and sore throat. There are treatments which can help most of the side effects.

J. Hormone Therapy

1. Hormones are chemicals your body makes to control many functions. If hormones make your tumor grow, your doctor may suggest therapy that blocks hormones from getting to cancer cells.

- a. May need to take pills for five years.
- b. May increase uterine cancer risk.

K. Clinical Trials

1. New and improved drugs to treat people have to be tested in people. These tests, called clinical trials, help doctors:

- a. learn if a drug works and is safe;
- b. know what dose works best;
- c. know what side effects it may cause, if any.

2. Many clinical trials are designed for outpatients, and let participants go about their normal activities. Clinical trials tend to require about the same time and number of doctor visits as standard therapy, but you might have to give blood samples or take tests more often to monitor your response.

3. The clinical trial must be explained to you fully and you must agree to the conditions. The hope of benefiting from a new drug or the desire to take part in research that might benefit others helps people volunteer for clinical trials. If interested, discuss this with your doctor or contact:

- a. National Cancer Institute
Cancer Information Service
1-800-4-CANCER
Deaf callers: 1-800-332-8615
cancertrials.nci.nih.gov
- b. Centerwatch Clinical Trials Listing Service
(617) 856-5900
www.centerwatch.com

L. Breast Reconstruction

1. If you have a mastectomy, your breast may be able to be reconstructed or rebuilt at the time that your mastectomy is done or at a later date. Ask your doctor about your options before you start treatment.
2. There are several ways to rebuild a breast:
 - a. from skin, muscle, and fat from another part of your body;
 - b. using a breast implant. A breast implant is a sac placed under the skin or chest muscle.
3. Things to Consider About Breast Reconstruction:
 - a. in clothes, you will look like you did before surgery;
 - b. you may need more than one surgery to complete the reconstruction;
 - c. a reconstructed breast may not have natural feelings and will not look exactly like your removed breast;
 - d. each option for breast reconstruction needs to be fully explained to you by the doctor doing the surgery;
 - e. ask about the effects on "self-exam" and mammography;
 - f. ask about timing with respect to radiation therapy.

M. Breast Cancer

1. Is the most common cancer in women in the U.S. and Louisiana. About 1/3 of all cancer cases in women are breast cancer
2. One out of eight American women will get breast cancer.
3. In Louisiana women have a lower risk of breast cancer than other women in the United States.

	White	African American
Louisiana	99 per 100,000	87 per 100,000
US	115 per 100,000	101 per 100,000

4. Deaths rates are either higher or similar to the national average.

	White	African American
Louisiana	24 per 100,000	33 per 100,000
US	26 per 100,000	32 per 100,000

5. Five-year Relative Survival Rates by Stage at Diagnosis

Breast Cancer	Percent Surviving
All Stages	84
Local	97
Regional	76
Distant	20

American Cancer Society Facts and Figures

6. Places to Find More Information
 - a. National Cancer Institute Cancer Information Service
1-800-4-CANCER
rex.nci.nih.gov
 - b. American Cancer Society National
1-800-ACS-2345
www.cancer.org
 - c. American Cancer Society Louisiana
(504) 469-0021
www2.cancer.org/state/la/index.html
 - d. Susan G Komen Foundation
1-800-462-9273
www.komen.org
7. For more detail on this information, you can:
 - a. Call toll free 877-4-LCLTFB (877-452-5832)
 - b. Download or read at http://rex.nci.nih.gov/PATIENTS/aboutbc/ubc_treatment.html

N. Methods of Distribution

1. The Louisiana State Board of Medical Examiners will distribute to all physicians licensed in Louisiana in its Spring, 2000 newsletter, a copy of a brochure containing the written summary detailed above. Furthermore, the board will provide a copy of the brochure to physicians upon renewal of their licenses for the year 2001. In subsequent years, all new licensees will receive a copy of the brochure with their licenses. Additional copies of the brochure can be obtained by contacting the Louisiana State Board of Medical Examiners.

2. The Louisiana Cancer and Lung Trust Fund Board will make the brochure available for printing via its website (lcltfb.org).

David W. Hood
Secretary

0004#049

RULE

Louisiana Lottery Corporation

Instant Lottery Games
(LAC 42:XV.Chapter 7)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., has repromulgated and amended the rules and regulations pertaining to the operations of instant tickets. In particular, LAC 42:XV. 715 concerning the minimum age to purchase lottery tickets has been changed to conform to state law.

Title 42 LOUISIANA GAMING

Part XV. Lottery

Chapter 7. Instant Lottery Games General Rules

§701. Policy Statement

A. The Louisiana Lottery Corporation (the "Corporation") is authorized by Louisiana Revised Statutes 47:9008(A) to adopt such rules and regulations as may be necessary to conduct specific lottery games and operations of the Corporation. Pursuant to that grant of authority, the Board of Directors of the Corporation (the "Board") has adopted these instant lottery games general rules, which are intended to provide general guidelines concerning the conduct and administration of instant lottery games.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:699 (April 2000).

§703. Definitions

A. As used in the Game Rules, Game Directives and Working Papers, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

Bar Code means the representation of pack/ticket and validation information in bar code form on the back of each instant lottery ticket.

Board means the Board of Directors of the Louisiana Lottery Corporation.

Captions means the printed verification of each play symbol which appear in the game play area below the play symbol.

Claim Center means a regional office or claims office of the Corporation at which winners may redeem prizes.

Claim Deadline means the day after which prizes from a particular game are no longer eligible to be redeemed or claimed.

Claim Form means the form provided by the Corporation to be completed by prize winners when claiming a prize.

Corporation means the Louisiana Lottery Corporation.

Cut and Paste means the attempted forgery of an instant ticket by cutting a symbol off one ticket and pasting it on another in an attempt to make the resultant ticket look like a winner.

Defective Ticket means any ticket that was printed in error or fails to meet the distribution specifications of the Corporation.

Drawing Directive means the detailed drawing instructions promulgated by the President for each drawing event.

End of Production Prize Structure means the version of the prize structure provided by the ticket printer after production, indicating the exact number of winners of each prize and any variation from the originally authorized prize structure.

Free Ticket means a lottery prize for which the winner is entitled to another ticket from the same game, without charge.

Game Directive means the game-specific guidelines that itemize the particular requirements of each game.

Game End Date means the date after which tickets are no longer authorized to be sold.

Game Number means the two-digit designation of each game for purposes of inventory control and accounting.

Game Play Area means the latex-covered area on the front of the ticket that contains the computer-generated symbols that determine winning or non-winning tickets according to game specifications.

Game Rules means these general rules regarding all instant lottery games, prize payments, and other game parameters.

Game Start Date means the date on which tickets for a particular game are authorized to be sold.

Grand Drawing means a special event designed by the Corporation to award a large top prize and subordinate prizes through a random process.

Grand Drawing Finalist means a contestant in the Grand Drawing event.

Instant Lottery Game means a lottery game that offers pre-printed tickets that, after a latex covering is rubbed off, indicate immediately whether a player has won a prize.

Instant Lottery Ticket means any ticket produced for an instant lottery game authorized by the Corporation.

Invalid Ticket means any ticket that fails to meet all of the validation requirements of the Corporation and the ticket vendor.

Omitted Pack means any pack of tickets that has been removed from the game during production.

Overprint means the latex covering over the play area and the information printed on the surface of the latex.

Pack means a set of instant tickets, each bearing a common pack number, fan folded in strips of five tickets. Each pack may contain 500 tickets or some other number of tickets determined by the Corporation for a particular game.

Pack/Ticket Number means the series of digits visible on the front of the ticket that designates the number of the particular pack and the sequential number of each ticket.

Play Symbols (or Prize Symbols) means a series of alphabetic or numeric characters or symbols appearing in the game play area of an instant ticket and covered by a latex material that are utilized in each game to determine winning tickets.

Preliminary Drawing means an event in which qualified entrants are selected at random to participate in the Grand Drawing.

President means the President of the Louisiana Lottery Corporation.

Prize Structure means the authorized itemization of prize levels and number of winners contained in the Working Papers of each game.

Quality Control Symbol means an alphabetic code appearing in the corner of the play area to serve as a visual indicator of imaging underneath the overprint.

Retailer means any person with whom the Corporation has contracted to sell lottery tickets to the public.

Retailer Validation Code means an alphabetic character code present within the game play area of an instant ticket.

Security Omit means a pack of tickets omitted from the game for security purposes, temporarily or permanently.

Security Patterns (or Ben Day) means the patterns used by the ticket printer in the background of the play area to frustrate ticket forgeries.

Ticket Display Area means the area on the front of the ticket that is used for non-secure graphics, information and other printing.

Ticket Number means the 3-digit number appearing on the face of the ticket which represents the sequential appearance of that specific ticket in a particular pack.

Valid Ticket means a ticket that meets all the validation requirements of the Corporation and the ticket vendor.

Validation Number means the number within the play area of the ticket, covered by latex, that is utilized to determine whether the ticket is a winner in the computerized validation process.

Validation Tapes are the computer tapes provided by the ticket printer that contain the information required to determine if a ticket is the winner of any prize.

Working Papers are the printing requirements provided to the ticket printer for the production of each game.

Zip Cash means the electronic validation/accounting system utilizing bar code technology.

Zip Cash Terminal means the electronic equipment at the retailer location that is used for prize validation, ticket distribution and accounting functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:699 (April 2000).

§705. General

A. These Game Rules shall apply to all instant lottery games offered by the Corporation upon adoption by the Board. Any change in these rules must be approved by the Board, and will take effect upon approval. The detailed information regarding each specific instant game will be contained in a Game Directive promulgated by the President. Each Game Directive will include the appropriate prize amounts, the game symbols required to win each prize, and any unique play format information or claim requirements. The Game Directive cannot be in conflict with these Game Rules. Each Game Directive will be distributed to and posted at every Corporation office and will be available for public inspection during the sales period of the particular game. The Directive must be approved and signed by the President at least 14 days prior to the start of the game. The

President shall also promulgate Drawing Directives that prescribe the operational details of Preliminary Drawings, Grand Drawings, and any other special promotional drawings in which a prize of more than \$5,000 is offered. Promulgation shall be similar to that prescribed for Game Directives. The Drawing Directive must be approved and signed by the President at least 5 days prior to the drawing event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:700 (April 2000).

§707. Odds of Winning

A. The overall odds of winning any prize in a particular game will be contained in the Game Directive for that game and shall be included in the promotional materials for the game or printed on the back of the ticket. The statement of odds does not need to specify the odds of winning each particular prize. The Corporation shall make every attempt to release accurate odds information in press releases for each instant lottery game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:701 (April 2000).

§709. Compliance with Law/Rules

A. Any person who purchases an instant lottery ticket agrees to comply and abide with State Law, these Game Rules and Game Directives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:701 (April 2000).

§711. Names of Winners

A. The Corporation shall have the right to use the names and the city or area of residence of all prize winners in instant lottery games. That information may be used by the Corporation for advertising and publicity purposes. The Corporation will not make public the addresses or phone numbers of instant lottery winners. Such information will be provided to authorized governmental agencies, as required by law or as deemed appropriate. Winners who grant the Corporation permission to be photographed agree to allow the use of such photographs for publicity and advertising purposes without any additional compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:701 (April 2000).

§713. Payment of Prizes

A. Instant Lottery game prizes will be paid in accordance with Game Directives and Retailer Regulations, and upon presentation of a valid winning instant ticket, payment will be made to the person presenting the ticket for payment. The owner of an instant ticket bears the sole responsibility for the risk of loss or theft of the ticket. If an instant ticket is claimed by the owner in error for a lower prize than that to which the owner is entitled, the Corporation shall not be liable to the owner for the higher prize not claimed. Any ticket on which the name of the owner is altered, or appears

to be have been altered, may be impounded by the Corporation without payment to the claimant until ownership of the ticket can be determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:701 (April 2000).

§715. Age Eligibility

A. No person under the age established by law may purchase an instant lottery ticket, but persons under the age established by law may receive an instant lottery ticket as a gift.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, amended LR 26:701 (April 2000).

§717. Retailer Eligibility

A. Retailers authorized by the Corporation to sell tickets may purchase tickets assigned to them and may claim prizes resulting from any tickets so purchased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:701 (April 2000).

§719. End of Game

A. Each instant lottery game will end when all tickets for that game have been sold, or on a date announced in advance by the President. The President may suspend or terminate a game without notice if such action is deemed to be in the best interests of the Corporation. No tickets for a particular game may be sold for a game after the game ending date or after the suspension or termination of a game. Any liability for prizes from tickets sold after that date belongs to the retailer who sells the tickets. No prize shall be paid to any claimant who fails to submit a claim within the period of time provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:701 (April 2000).

§721. Winner Validation

A. Except as provided in specific Game Directives, the following requirements will apply to the validation of winning instant lottery tickets.

1. The number of play symbols in the game play area must correspond with the number of play symbols provided for in the Working Papers for the game.

2. Each play symbol must have a corresponding caption underneath, in accordance with the captions provided for in the Working Papers for the game.

3. Each of the play symbols must be present in its entirety and be fully legible.

4. Each of the play symbols and its play caption must be printed in black ink, unless a different color of ink is specified in the Working Papers for the game.

5. The instant ticket must be intact and not defaced in any manner.

6. The Game and Pack/Ticket Numbers must be present in their entirety and be fully legible.

7. The ticket must not be reconstituted or tampered with in any manner.

8. The ticket must not be counterfeit in whole or in part.

9. The ticket must have been issued by the Corporation in the authorized manner.

10. The ticket must not be stolen or be from a pack omitted from the game by the Corporation.

11. The play symbols, captions and retailer validation codes must be in a right-side-up orientation and not reversed in any manner.

12. The ticket must have within the play area exactly the specified number of play symbols and corresponding captions, and exactly the specified number of retailer validation codes, as provided for in the Working Papers for that game.

13. The validation number on the ticket must appear on the official validation tape for the game as provided to the Corporation by the ticket printer.

14. The ticket must not be partially blank, misregistered or printed or produced in error.

15. The ticket must be submitted for redemption within the claim period provided for the game.

16. The ticket must withstand microscopic inspection of the security patterns within the play area to determine any alterations of the ticket.

17. The ticket must withstand additional confidential validation tests prescribed by the Corporation.

B. Except as provided above, any instant lottery ticket that fails to pass any of the validation requirements is void and ineligible for any prize, and no prize shall be paid. Liability for defective tickets is limited to the original purchase price of the ticket.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:701 (April 2000).

§723. Delay of Payment

A. The Corporation shall pay prizes in a timely fashion but may delay making payment of any prize or installment of a prize under the following circumstances:

1. a dispute occurs or it appears that a dispute may occur relative to any prize.;

2. there is any question regarding the identity of the claimant;

3. there is any question regarding the validity of any ticket;

4. the claim is subject to any court ordered garnishment;

5. the Corporation becomes aware of a change in circumstances relative to a prize awarded, the payee or the claim which requires review.

B. The Corporation assumes no liability for interest for any delay of payment of a prize or installment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:702 (April 2000).

§725. Claim Form

A. For any prize of more than \$500, the owner of the apparent winning ticket shall complete an official claim form that requires the winner to provide:

1. The name of the individual or entity claiming the prize.

2. The address and city of residence of the claimant.

3. The social security number of the individual claimant or the federal employer's identification number issued by the IRS for multiple claimants.

B. No prize payment will be authorized if the required information is not provided by the claimant. The Corporation will utilize due diligence to insure that the information provided on the claim form is correct, including the verification of information by inspection of a driver's license, social security card or other forms of information. The name of the owner printed on the back of the ticket must correspond with the name of the claimant.

C. A group, family unit, club or other organization which is not a legal entity or which does not possess a federal employer's identification number may claim a prize if it:

1. files an Internal Revenue Service form 5754, "Statement by Person(s) Receiving Gambling Winnings," or a successor form, with the Corporation, designating to whom the prize is to be paid and the person or persons to whom the prize is taxable, or

2. designates one individual in whose name the claim shall be entered and furnish that person's social security number and other required information, if approved by the President.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:702 (April 2000).

§727. Assignability

A. The right of any person to a prize after the prize is claimed shall not be assignable, except as follows.

1. The Corporation may pay any prize to the estate of a deceased prize winner.

2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate court order.

B. A Grand Drawing Finalist may not assign or sell the right to participate in the Grand Drawing, nor can two or more Finalists enter into an advance agreement to split their winnings following the Grand Drawing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:702 (April 2000).

§729. Installment Prizes

A. The Corporation may provide for the payment of any prize of more than \$100,000 in equal annual installments. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount. When the prize is paid in installments, the President may round the actual amount of the prize to the nearest \$1,000 amount to facilitate the appropriate funding mechanism. The period of payment of

any installment payment schedule shall not exceed 20 years, unless the prize is a guaranteed amount each year for the lifetime of the winner. If a lifetime payment guarantee is made, the minimum number of installment payments made to a winner or a winner's estate shall be 20 years. The Corporation shall not accelerate the payment schedule of any installment prize without the consent of the winner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:702 (April 2000).

§731. Merchandise Prizes

A. If a non-cash prize is offered, the value of the prize will be determined by the fair market value of any such prize, which will be the amount reported to the State and the IRS for tax purposes. If the value of the prize exceeds \$5,000, the Corporation will pay withholding taxes on behalf of the winner equivalent to 25 percent of the prize value. The Corporation will not be responsible for any state taxes or other fees associated with the prize.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:703 (April 2000).

§733. Preliminary Drawings

A. The President shall promulgate a Drawing Directive that details the procedures involved in conducting a random drawing to determine Grand Drawing Finalists. The directive shall specify the qualifications for valid Grand Drawing Entries and a methodology for the random pre-selection of entries for purposes of the preliminary drawing, if required. The President shall exercise care in making certain that any procedures devised for Finalist selection are totally fair and random, and that no entry has a greater opportunity for selection than any other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:703 (April 2000).

§735. Grand Drawings

A. The President shall promulgate a Drawing Directive that details the procedure for conducting any Grand Drawing, including the prizes to be offered, the drawing method, and the equipment to be utilized. The President shall exercise care to insure a totally random drawing process that results in the selection of prize winners in a method that favors none of the participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:703 (April 2000).

§737. Independent Auditor

A. All drawing events, including preliminary drawings and grand drawings, shall be witnessed by an independent auditing firm. The independent auditor shall attest to the fact that procedures for the drawing were properly disseminated and that the procedures were followed, and shall make note of any exceptions to the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, re-promulgated LR 26:703 (April 2000).

Charles R. Davis
President

0004#006

RULE

Louisiana Lottery Corporation

On-Line Lottery Games
(LAC 42:XV.Chapter 1)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., has amended the rules and regulations pertaining to the operations of on-line lottery games in particular LAC 42:XV.127 relative to payment of installment prizes.

Title 42

LOUISIANA GAMING

Part XV. Lottery

Chapter 1. On-Line Lottery Games

§127. Installment Prizes

A. The Corporation may provide for the payment of any prize of more than \$100,000 in equal annual installments. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount. When the prize amount is paid in installments, the President may round the actual amount of the prize to the nearest \$1,000 amount to facilitate the appropriate funding mechanism. The period of payment of any installment payment schedule shall not exceed 20 years. The Corporation shall not accelerate the payment schedule of any installment prize without the consent of the winner.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, re-promulgated LR 23:66 (January 1997) amended LR 26:703 (April 2000).

Charles R. Davis
President

0004#009

RULE

Louisiana Lottery Corporation

Payment of Prizes
(LAC 42:XV.Chapter 9)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., has repromulgated and amended the special rules and regulations on payment of prizes.

Title 42
LOUISIANA GAMING

Part XV. Lottery

**Chapter 9. Special Rules and Regulations on
Payment of Prizes**

§901. Policy Statement

The Louisiana Lottery Corporation (the "Corporation") is required by Louisiana Revised Statutes 47:9026 to establish and maintain rules and regulations providing for the withholding of lottery prizes of persons who have outstanding child support arrearages as reported to the Corporation. Pursuant to that mandate, the Board of Directors of the Corporation (the "Board") has adopted these rules and regulations which are intended to provide general guidelines concerning the withholding of lottery prizes of persons with outstanding child support arrearages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:704 (April 2000).

§903. Definitions

A. following italicized terms shall have the meaning set forth herein when used in these rules and regulations:

Arrearage means outstanding child support owed by a Debtor to or otherwise collectible by the Claimant Agency.

Claimant Agency means the Louisiana Department of Social Services.

Debtor means a person who has been reported by the Claimant Agency to the Corporation, pursuant to these rules and regulations, as having an Arrearage, as evidenced by the records of the Claimant Agency.

Winner means a person entitled to the payment of a lottery prize of \$600.00 or more.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:704 (April 2000).

§905. Authority of the Corporation

These rules and regulations are adopted pursuant to the powers granted to the Corporation under the Louisiana Lottery Corporation Law. These rules and regulations are supplemental to and not in substitution for the provisions of the Louisiana Lottery Corporation Law, other provisions of Louisiana or federal law and other rules and regulations of the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:704 (April 2000).

§907. Obtaining Information from Claimant Agency

Promptly upon receiving a request for such information from the Claimant Agency, the Corporation shall provide to the Claimant Agency a computer-readable format for the compilation, storage and maintenance of a list of Debtors by the Claimant Agency. The list of Debtors generated by the Claimant Agency shall contain their Arrearages and such other information as is mutually determined by the Corporation and the Claimant Agency to be necessary and compatible with the goals of Louisiana Revised Statutes 47:9026 and the efficient and effective operation of the Corporation and the Claimant Agency. The Corporation

shall accept the list as the Claimant Agency transmits and updates it to the Corporation in the prescribed format at intervals and times as specified by the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:704 (April 2000).

§909. Confirmation of Child Support Obligations

A. The Corporation shall determine that a Winner is a Debtor according to the following provisions:

1. Prior to the payment of any lottery prize of \$600.00 or more, the Corporation's staff shall determine whether the name of the Winner appears on the most current list of Debtors provided to the Corporation by the Claimant Agency.

2. If the name of the Winner appears on the Claimant Agency's most current list of Debtors, the Corporation may contact the Claimant Agency to confirm the Winner's status as a Debtor and verify the amount of his or her Arrearage. The Corporation shall not be obligated to request confirmation, but shall act in accordance with the information it obtains thereby if it does.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:704 (April 2000).

§911. Disbursement of Prize Money to a Debtor

A. The Corporation shall disburse lottery prize money to a Winner who is also a Debtor as follows:

1. The Corporation shall subtract the Debtor's Arrearage and all other amounts required to be withheld from lottery prizes from the Debtor's prize, and shall pay the remainder to the Debtor. If the remainder is less than zero, the Debtor shall not receive a payment.

2. At regular intervals mutually determined by the Corporation and the Claimant Agency, the Corporation shall transfer all Arrearages withheld by the Corporation to the Claimant Agency.

3. Transfer of the Debtor's Arrearage to the Claimant Agency shall discharge the Corporation from any liability to the Debtor for payment of any prize money.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:704 (April 2000).

§913. Reliance on Claimant Agency Information

The Corporation may enter into an agreement with the Claimant Agency entitling the Corporation to rely on information it receives from the Claimant Agency and requiring the Claimant Agency to defend claims against the Corporation for erroneous withholding of prize money in cases in which the Corporation acts in accordance with information provided by the Claimant Agency. Otherwise, the Corporation shall not be liable to any person for withholding a lottery prize based upon information provided to it by the Claimant Agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:704 (April 2000).

§915. No Third Party Rights Created Hereby

These rules and regulations are not intended to create contractual rights on behalf of any person or impose contractual obligations on the Corporation, but are merely intended to provide a procedure for the Corporation's staff to follow in assisting the appropriate state agency in the process of withholding the lottery prizes of persons with outstanding child support arrearages. No third party rights against the Corporation arise by virtue of these rules and regulations. These rules and regulations are subject to modification or change at any time at the sole discretion of the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:705 (April 2000).

§917. Amendment

These rules and regulations may be amended according to Part D of the By-Laws and Rules of Procedure of the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation on August 23, 1991 in the *State Times* on September 10, 1991, amended LR 26:705 (April 2000).

Charles R. Davis
President

0004#007

RULE

Louisiana Lottery Corporation

Procurement Policies and Rules
(LAC 42:XV.Chapter 3)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., repromulgated and amended the rules and regulations pertaining to the procurement of goods and services. The rules concerning ethical standards and appeals have been amended, in particular, an amendment to specify that violation of the Lottery rules or law constitutes good cause for the suspension, revocation, or refusal to renew any contract, the addition of an appeal procedure that was previously found in the Corporation's By-Laws, and a new rule amendment procedure found in the Corporation's By-Laws which states that the Board shall adopt and promulgate rules and regulations in accordance with the provisions of the Administrative Procedure Act.

Title 42

LOUISIANA GAMING

Part XV. Lottery

Chapter 3. Procurement Policies and Rules

§301. Policy Statement

A. The Board of Directors of the Louisiana Lottery Corporation adopts these policies and rules in order to assure public confidence in the procedures followed by the Corporation in procuring the items, products and services necessary to conduct a successful lottery. Public confidence

depends on the Corporation developing and maintaining procurement procedures that:

1. are subject to the highest ethical standards;
2. promote the acquisition of high quality goods and services at competitive prices;
3. promote administrative efficiency;
4. recognize that the operation of a lottery is a unique activity of an instrumentality of the State of Louisiana; and
5. afford fair treatment of all persons offering their products and services to the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:705 (April 2000).

§303. Definitions

A. The following italicized terms shall have the meaning set forth herein when used in these policies and rules.

Authorized Officers means the President, the Vice President, the Secretary-Treasurer, the Procurement Officer and all persons designated as Division Heads in the Corporation's organizational structure from time to time.

Board means the Board of Directors of the Corporation as established and existing pursuant to the Louisiana Lottery Corporation Law.

Business means any corporation, partnership, individual, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or any other legal entity through which business is conducted.

Contractor means any Business with which the Corporation has entered into a Procurement contract.

Director means a person appointed to the Board pursuant to Section 9004 of the Louisiana Lottery Corporation Law; the term shall not include ex officio, nonvoting members of the Board.

Louisiana Laws means all provisions of the Constitution of the State of Louisiana and all statutes, codes, rules and regulations.

Louisiana Lottery Corporation Law means the provisions of Louisiana Revised Statutes 47:9000 et seq.

Major Procurement shall have the same meaning ascribed to such term in Section 9002(3) of the Louisiana Lottery Corporation Law.

Minor Procurement shall mean a Procurement of goods or services for amounts of less than \$100,000.

Non-Statutory Major Procurement means a Procurement that would be a Major Procurement but for the fact that it is a Procurement common to the ordinary operations of a corporation within the meaning of Section 9002(3) of the Louisiana Lottery Corporation Law.

Person means any Business, individual, union, committee, club, firm, corporation or other organization or group of individuals.

Procurement means the acquisition by the Corporation of any goods or services in return for a cash payment. The term shall not include (i) acquisitions from an agency or political subdivision of the State of Louisiana; (ii) employment contracts with individuals; (iii) contracts relating to the retail sales of lottery tickets; (iv) financing; or (v) contracts for goods or services provided as part of, or related to, a lease of immovable property.

Procurement Authorization means the document prepared by the Corporation pursuant to Part B, Section 2 of these policies and rules.

Procurement Officer means the officer of the Corporation appointed by the President to manage and supervise Procurements from time to time.

Request for Proposals or *RFP* means the document prepared by the Corporation pursuant to Part B, Section 2 of these policies and rules.

Special Circumstances mean the circumstances stated in Part B, Section 10 of these policies and rules.

Special Procurement means Procurement authorized in Part B, Section 10 of these policies and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:705 (April 2000).

§305. Authority of the Corporation

A. These policies and rules are adopted pursuant to the power granted to the Corporation under Section 9028 of the Louisiana Lottery Corporation Law. These policies and rules are supplemental to and not in substitution for all Louisiana Laws other than those relating to procurement to which the Directors, officers, employees and Contractors are subject, including without limitation the Louisiana Code of Governmental Ethics and the Louisiana Lottery Corporation Law. These policies and rules shall, pursuant to Section 9028 of the Louisiana Lottery Corporation Law, render Louisiana Laws on procurement inapplicable to the Corporation. Additionally, these policies and rules shall be deemed to incorporate the Louisiana Code of Governmental Ethics and the Louisiana Lottery Corporation Law such that, to the extent any conduct, action or a failure to act of any Director, officer, employee or Contractor is prohibited by or violates either of the Louisiana Code of Governmental Ethics or the Louisiana Lottery Corporation Law, such violation shall constitute a violation of these policies and rules. A violation of these rules by a Contractor shall constitute good cause for the suspension, revocation or refusal to renew any contract entered into pursuant to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991, promulgated in *The Advocate* on October 8, 1991, amended LR 26:706 (April 2000).

§307. Applicability

These provisions shall apply to all Procurements other than Minor Procurements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:706 (April 2000).

§309. Initiation of Procurement

A. The Corporation shall initiate Procurement by preparation of a Procurement Authorization which authorizes the Procurement. The Procurement Authorization shall clearly state the goods or services to be procured, the Corporation's need for the goods or services, an estimate of the anticipated cost of the Procurement and a listing of potential Contractors. The listing of potential Contractors

shall include all Businesses known to the Corporation as being in the business of supplying the subject goods or services and from whom a response to the Corporation's Request for Proposals would enhance the competition among Businesses for the Procurement Contract. The listing need not be included if it would include over 10 potential Contractors. The President (or in his absence the Vice President or the Secretary-Treasurer), the Procurement Officer and the Division Head of the division for which the Procurement will occur shall execute the Procurement Authorization and the Procurement Officer shall immediately send copies of the Procurement Authorization to all Directors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:706 (April 2000).

§311. Preparation of Request for Proposals

A. Upon execution of the Procurement Authorization, the Corporation shall prepare a Request for Proposals which shall include, at a minimum, the following information:

1. clear and complete specifications of the goods or services required by the Corporation, prepared in such a manner as to promote comparability of responses by potential Contractors;

2. a requirement that all responding proposals be in writing and the time by and place at which all responding potential contractors should submit proposals; and

3. a listing of the criteria the Corporation will use in evaluating proposals by responding potential Contractors and the relative weight the Corporation will give the respective criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:706 (April 2000).

§313. Dissemination of RFP

A. The Corporation shall give public notice of the RFP by advertising its issuance in the official journal of Louisiana. The advertisement shall appear at least twenty (20) days before the last day that the Corporation will accept proposals by potential Contractors. The advertisement shall specify the goods or services required by the Corporation, the last date that the Corporation will accept proposals and an address at which a copy of the RFP can be obtained. When advisable in order to enhance the competitiveness of the procurement process, the Corporation shall advertise the issuance of the RFP in trade journals which serve the interests of Businesses likely to respond to the RFP. Additionally, the Corporation shall mail the RFP to potential Contractors shown on the Procurement Authorization and to all Directors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:706 (April 2000).

§315. Cancellation or Amendment of RFP

A. The Corporation may cancel or amend any outstanding RFP by written notice to all Businesses to which the RFP was sent or given. The reasons for cancellation or amendment of an RFP shall be stated on a separate document attached to the version of the notice retained by the Corporation, and the Corporation shall deliver a copy of this version to the Directors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:707 (April 2000).

§317. Acceptance and Evaluation of Proposals

A. The Corporation shall consider and evaluate all proposals responding to the RFP, which are submitted in compliance with the deadline and other requirements stated in the RFP. The Corporation may waive any deficiency or non-conformity of a proposal or provide the responding Business a reasonable period of time to cure the deficiency or non-conformity, provided that such action does not prejudice the status of other proposals. At any time prior to completion of the evaluation process, the Corporation may request any responding potential Contractors to clarify or expand upon provisions of their proposals. The Corporation shall evaluate proposals in a manner consistent with the RFP and in accordance with a standard evaluation. The Procurement contract shall be awarded in the Corporation's sole and uncontrolled discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:707 (April 2000).

§319. Preparation of Contract

A. Upon completion of the evaluation and mutual acceptance of all terms of the proposal by the Corporation and the Contractor, the Corporation shall prepare the contract. The contract shall contain, at a minimum, the following:

1. the name and address of the Contractor;
2. the goods to be delivered or the services to be performed under the contract;
3. the term of the contract and a statement giving the Corporation the right to terminate the contract unilaterally upon thirty (30) days written notice;
4. a provision giving the Corporation the right to audit those financial records of the Contractor which relate to the contract;
5. a provision that the Contractor shall not transfer any interest in the contract without the prior written consent of the Corporation (except that claims for money due or to become due to the Contractor from the Corporation under the contract may be assigned to a bank, trust company or other financial institution but that the Corporation shall not be bound by the assignment unless furnished sufficient notice of it);
6. a provision that the Contractor shall bear responsibility for paying any taxes which become due as a result of payments to the Contractor under the Contract;

7. a provision that upon termination of the contract all records, reports, worksheets or any other materials related to the contract shall become the property of the Corporation;

8. a provision obligating the Contractor to provide the Corporation with notice of any material adverse change in its condition, financial or otherwise;

9. a provision requiring the payment of liquidated damages to the Corporation upon a material breach of the contract by the Contractor; and

10. Louisiana Laws will govern the contract.

B. A Procurement contract shall not obligate the Corporation for an initial term in excess of three (3) years without the approval of the Board. A contract may contain two (2) optional periods for extensions of the contract by the Corporation, provided that any individual option period or extension shall not exceed one (1) year in duration, and any individual option period or extension may become effective only upon the specific, affirmative exercise of the option, or the specific, affirmative agreement to the extension, by the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:707 (April 2000).

§321. Authorization and Execution of Contract

A. The Corporation shall not execute a contract for a Major Procurement or a Non-Statutory Major Procurement unless the Board reviews and approves the contract and authorizes execution of it by an Authorized Officer. The Board may authorize execution of the contract in a form substantially similar to the form presented to the Board for review, subject, however, to such modifications as are consistent with the RFP, the proposal and other documents delivered to the Board, and as are reported to the Board promptly after execution of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:707 (April 2000).

§323. Preservation of Integrity of Procurement

A. In order to preserve the honesty, fairness and competitiveness of the procurement process, the following restrictions on dissemination of information shall apply:

1. Prior to execution of a final Contract, Directors, officers and employees of the Corporation shall not disclose the contents of a proposal or any other communication to a potential Contractor to any person not employed by the Corporation or its consultants.

2. Directors, officers and employees of the Corporation shall not disclose to any potential Contractor any information proprietary to the Corporation and pertinent to the Procurement for which the potential Contractor may submit a proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:707 (April 2000).

§325. Special Procurements

A. Notwithstanding any other provision of these policies and rules to the contrary, the Corporation may make Procurements, including Major Procurements, without complying strictly with the procedures stated in this Part, if any of the following Special Circumstances then exist and these circumstances require non-compliance with the procedures stated in this Part:

1. a threat to public health, welfare or safety or the integrity or operation of the Corporation;
2. a unique, non-recurring opportunity to obtain goods or services at a substantial cost savings;
3. a sponsorship arrangement permitting the Corporation to acquire goods or services at a reduced cost or cost-free;
4. the structure of the applicable market does not permit the Corporation to procure the goods or services via a competitive bidding process;
5. the goods or services which meet the Corporation's reasonable requirements can be provided only by a single Business; or
6. due to time constraints not caused by the Corporation, compliance with each of the policies and rules stated in this Part would materially impair the financial performance of the Corporation.

B. A Procurement under Special Circumstances shall be made only after the President determines the existence of any of the Special Circumstances and states the reasons for the determination in a report, which is promptly delivered, to the Board. It must be made in compliance with as many of the requirements of this Part as practicable under the circumstances as determined by the President. The Board may, by affirmative action prior to the completion of the Special Procurement, reverse the President's determination and direct the Corporation not to make the Special Procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:708 (April 2000).

§327. Minor Procurement Procedures

The provisions of ' 329 and ' 331 shall apply to all Minor Procurements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:708 (April 2000).

§329. Supervision by Procurement Officer

A. The Procurement Officer shall supervise, manage and bear responsibility for all Minor Procurements. The Procurement Officer shall promulgate written procedures for making competitive Minor Procurements to the maximum degree possible and will assure the Corporation's compliance with these Procedures. At the Board's request, the Procurement Officer shall offer these procedures to the Board for review, and the Board may modify these procedures in its discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:708 (April 2000).

§331. Minimum Requirements of Procedures

A. Procedures promulgated by the Procurement Officer pursuant to this Part shall, at a minimum, require:

1. that no Minor Procurement shall be structured as such in order to avoid the policies and rules applicable to Procurements stated in Part B;
2. that, in instances where a sole source Contractor is used, it shall be fully justified in writing prior to the Procurement and retained as part of the file. This requirement will not apply to Procurements made under this Part against a standing order contract that was entered into on a competitive basis;
3. that all disbursements by the Corporation for Minor Procurements be by check signed by two Authorized Officers;
4. that the Corporation reasonably justify the need for the Minor Procurement; and
5. the Corporation undertake reasonable steps, considering the size of the Minor Procurement, to obtain high quality goods or services as competitive costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991 and promulgated in *The Advocate* on October 8, 1991, re-promulgated LR 26:708 (April 2000).

§333. Appeals

A. The procedures stated in this part apply to an appeal of a Corporation determination by a vendor, contractor, or a person seeking to become a vendor or contractor under Section 9017 of the Louisiana Lottery Corporation Law.

B. Prior to making an appeal, an appellant must send the President a request letter stating the action of which the appellant seeks modification and all reasons the appellant advances for modification. The request letter must state the appellant's name and address, must enclose copies of all documents relevant to the request, and must be signed by the appellant. The appellant must represent that all facts stated in the request letter are correct to the best knowledge of the appellant. The President shall respond to the request letter in writing within ten (10) days of the Corporation's receipt of it, stating all reasons for the response.

C. An appellant may appeal the President's denial of all or any part of the appellant's request stated in the appellant's request letter by sending the President a notice of appeal. The notice of appeal shall be effective only if it is in writing, states the substance and basis of the appeal, and is received by the Corporation within ten (10) days of the appellant's receipt of the President's letter denying the appeal. The notice may request that the hearing be expedited, provided that such a request shall constitute an undertaking by the appellant to pay the costs assessable under Section 5 of this Part. Upon receipt of a notice of appeal, the President shall deliver the notice, the appellant's request letter and the President's denial letter to the Board.

D. The Board shall consider the appeal at its next regular meeting to occur five (5) or more days after receipt of the notice of appeal. The hearing shall be conducted in accordance with the provisions of the Administrative

Procedure Act. The Chairman may call a special meeting of the board to hear an appeal if the appellant has requested an expedited hearing and the Chairman in his sole discretion believes that the appeal warrants an expedited hearing. The President shall give the appellant reasonable notice of the time and location of the Board meeting. The appellant shall be permitted to present the appeal orally for a time period determined by the Board. The presentation may not include points or subjects which were not included in the appellant's request letter. The Corporation shall keep a complete record of the hearing and shall make it available to the appellant. The Board shall render its decision on the appeal by majority vote within five (5) days after conclusion of the hearing.

E. If the appellant requested an expedited hearing, the Board conducts the hearing at a special meeting, and the Board denies the appeal, the Board may charge the appellant with the Corporation's reasonable costs incurred in connection with the special meeting, including any travel and per diem expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991, promulgated in *The Advocate* on October 8, 1991, amended LR 26:708 (April 2000).

§335. Amendment

A. These policies and rules may be amended according to Part D of the Bylaws and Rules of Procedure of the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on September 26, 1991, promulgated in *The Advocate* on October 8, 1991, amended LR 26: 0000 (April 2000).

A public hearing will be held on January 28, 2000, at 10:00 a.m., at the offices of the Louisiana Lottery Corporation, 11200 Industriplex Boulevard, Suite 190, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Charles R. Davis
President

0004#008

RULE

Louisiana Lottery Corporation

Retailer Regulations(LAC 42:XV.Chapter 5)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., has repromulgated and amended the rules and regulations pertaining to the retailers of lottery games. In particular, the amendments include elimination of certain definitions to conform to the statute and recent changes to the Corporation's By-Laws. In addition, the amendments include changes to provide that retailers are subject to the state code of ethics. As submitted, certain sections are deleted since these topics are covered under the state code or lottery law. Also, amendments reflect a recent reduction by the Corporation of the application fees charged to potential retailers, the addition of language detailing the annual

license renewal process which is required by statute, a change to the language regarding retailer commissions that allows for the Corporation to increase the amount of the commission percentage as necessary, a change in language regarding required purchase of lottery tickets by retailers to give the Corporation flexibility to handle unusual circumstances affecting retailers without the requirement of an automatic suspension or termination of its license, clarification language regarding transfer of equipment deposits, clarification language regarding retailer training, and a change in the minimum number of games offered by a retailer from two (2) to four (4) games reflecting a change in pack sizes from five hundred (500) tickets per pack to two-hundred fifty (250) tickets per pack. The final modification is to add an appeal procedure that was previously found in the Corporation's By-Laws.

Title 42

LOUISIANA GAMING

Part XV. Lottery

Chapter 5. Retailer Regulations

§501. Policy Statement

A. In order to conduct a successful lottery, the Louisiana Lottery Corporation (the "Corporation") must develop and maintain a statewide network of lottery retailers that will serve the public convenience and promote the sale of tickets, while insuring the integrity of the lottery operations, games and activities. In order to facilitate such objectives, the Corporation has adopted these Retailer Regulations. Such Retailer Regulations shall be in addition to and not a substitute for the provisions of the Louisiana Lottery Corporation Law, other provisions of Louisiana or federal law and the other rules and regulations of the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:709 (April 2000).

§503. Definitions

A. The following italicized terms shall have the meaning set forth herein when used in these Retailer Regulations.

Board means the Board of Directors of the Corporation as established and existing pursuant to the Louisiana Lottery Corporation Law.

Director means a person appointed to the Board pursuant to Section 9004 of the Louisiana Lottery Corporation Law; the term shall not include ex officio, nonvoting members of the Board.

Employee means any person who is not a Director or Officer but who is employed by the Corporation to work a regular work week of 25 or more hours per week, or any person who is not a Director or Officer of the Corporation but who is employed or contracted by the Corporation to perform work for which he or she will either:

a. work, in any six week period, more than 200 hours for the Corporation, or

b. receive, in any one-year period, more than \$10,000, in the aggregate, for work performed for the Corporation. "Employee" shall not include a person who otherwise meets the above criteria but who is an employee of an Organization contracted to perform services for or provide products to the Corporation; provided, that, with

regard to the conduct of such employee, such Organization is subject to another provision of Louisiana Law.

Louisiana Laws means all provisions of the Constitution of the State of Louisiana and all statutes, codes, rules and regulations.

Lottery Tickets means lottery instant tickets or on-line tickets or any other ticket sold to the public as part of a lottery game.

Louisiana Lottery Corporation Law means the provisions of Louisiana Revised Statutes 47:9000 et seq.

Officer means the President, the Vice President, and the Secretary-Treasurer.

Organization means a corporation, partnership, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or other entity existing for any purpose.

Retailer means any person or Organization with whom the Corporation has contracted to sell Lottery Tickets to the public.

Instant Retailer means a person or Organization that sells instant tickets to the public, and an "On-Line Retailer" means a person or Organization that sells on-line tickets to the public. Without affecting the definitions in this section, an Instant Retailer may also sell, or may in the future sell, on-line tickets, and an On-Line Retailer shall sell instant tickets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:709 (April 2000).

§505. Authority of the Corporation

A. These Retailer Regulations are adopted pursuant to the powers granted to the Corporation under the Louisiana Lottery Corporation Law. These Retailer Regulations are supplemental to and not in substitution for other Louisiana Laws to which Retailers are subject.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:710 (April 2000).

§507. Ethical Rules Relating to Retailers

A. A retailer shall be subject to the Louisiana Code of Governmental Ethics and the applicable provisions of the Louisiana Lottery Corporation Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended LR 26:710 (April 2000).

§509. Selection of Retailers

A. General Provisions. The following provisions shall generally apply to the selection of Retailers:

1. In selecting Retailers, whether of instant tickets or of on-line tickets, the Corporation may consider the following factors, among others:

- a. financial responsibility;
- b. integrity;
- c. reputation;
- d. accessibility of the place of business or activity to the public;
- e. security of the premises;

f. sufficiency of existing Retailers to serve the public convenience;

g. projected volume of sales for the lottery game involved.

2. The Corporation may conduct whatever investigations it deems necessary to analyze an application and may require any applicant to produce any information the Corporation deems necessary.

3. The selection of Retailers shall be made without regard to political affiliation, activities, or monetary contributions to political organizations or candidates for any public office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended in *The Advocate* on December 24, 1991, re-promulgated LR 26:710 (April 2000).

§511. Threshold Criteria for Retailers

A. An applicant for Retailer status may not become and remain a Retailer unless the applicant meets the following threshold criteria:

1. the applicant is current in payment of all taxes, interest, and penalties owed to any taxing political subdivision where the applicant sells Lottery Tickets;

2. the applicant is current in filing all applicable tax returns and in payment of all taxes, interest, and penalties owed to the state of Louisiana, excluding items under formal appeal pursuant to applicable statutes;

3. the applicant has not been:

- a. convicted of a criminal offense related to the security or integrity of a lottery in Louisiana or any other jurisdiction;

- b. convicted of any illegal gambling activity, false statements, false swearing, or perjury in this or any other jurisdiction; or convicted of any crime punishable by more than one year imprisonment or a fine of more than one thousand dollars, or both;

- c. found to have violated the provisions of these Retailer Regulations, the Louisiana Lottery Corporation Law or any administrative regulation adopted thereunder, unless either ten years have passed since the violation, or the President and the Board find the violation both minor and unintentional in nature;

- d. a vendor (as defined in Section 9002(8) of the Louisiana Lottery Corporation Law) or any employee or agent of any vendor doing business with the Corporation;

- e. a resident in the same household as an Officer of the Corporation;

- f. found to have made a statement of material fact to the Corporation, knowing such statement to be false.

4. The applicant meets such other criteria as the Corporation adopts from time to time relating to the integrity, reputation, financial responsibility, business practices or qualifications of an applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended in *The Advocate* on December 24, 1991, amended LR 26:710 (April 2000).

§513. Criteria for Instant Retailers

A. In general, the Corporation shall permit any applicant meeting the threshold criteria stated in Section 2 above to become an Instant Retailer. However, the Board may from time to time adopt specific policies relative to the selection of Instant Retailers if it determines that the Corporation's best interests will be served by such policies. The determination and policies shall be stated in a written policy statement adopted by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended in *The Advocate* on December 24, 1991, re-promulgated LR 26:711 (April 2000).

§515. Criteria for On-Line Retailers

A. The Board shall maintain a limitation on the number of On-Line Retailers. The limitation shall be based on the number of On-Line Retailers permitted under the Corporation's contracts for procurement of an on-line lottery system and other appropriate objective business factors. The determination and policies shall be stated in a written policy statement adopted by the Board. The mechanism and factors established to determine which applicants become On-Line Retailers shall be based solely on the Corporation's business needs and shall afford fair and objective treatment to all applicants. By way of example, but not limitation, such determining factors may include:

1. the status of the applicant's license to sell instant tickets, if any, and the applicant's volume of instant ticket sales;
2. the distribution of Retailers for on-line tickets throughout the state and the geographic area serviced by the applicant, and the sufficiency of Retailers for on-line tickets to serve the public convenience at any particular location in the state;
3. the average number of customers who visit an applicant's place of business;
4. the applicant's hours of operations;
5. the capability and willingness of an applicant to pay prizes up to the maximum amount payable by Retailers at various times during the day;
6. the capability and willingness of an applicant to promote the sale of Lottery Tickets;
7. the applicant's proposed location for the terminal to sell on-line tickets;
8. the financial stability of an applicant;
9. any problems the Corporation has experienced with an applicant's electronic fund transfer account for instant ticket sales;
10. the degree to which an applicant uses display materials for instant ticket games;
11. the sales potential for on-line tickets by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended in *The Advocate* on December 24, 1991, re-promulgated LR 26:711 (April 2000).

§517. Application Procedure and Fees

A. The Corporation may develop forms for the Retailer applications requesting all such information required by law

or that the Corporation deems necessary or appropriate to evaluate Retailers. The Corporation may require that such application be completed, executed, acknowledged, notarized or any of the foregoing, and that an officer of the Retailer execute and acknowledge or notarize any oath that the Corporation deems necessary or appropriate.

B. Each applicant for a license to sell lottery tickets shall provide to the Corporation a non-refundable application fee in an amount determined by the Board from time to time.

C. Special procedures for application for a Retailer license may be developed by the Corporation for applicants that are a "chain store group," or a group of two or more stores or other retail outlets under common control. Each applicant that is a chain store group shall pay a non-refundable application fee in an amount determined by the Board from time to time for each retail outlet location which shall be covered by such license.

D. Instant Retailers who apply to become On-Line Retailers shall be assessed such uniform charges and fees as are stated in the policy statement for On-Line Retailers. Such uniform charges and fees are intended to satisfy the requirements of La. R.S. 47:9051 (C). Such uniform charges and fees may be defined as reimbursements for costs associated with providing the retailer on-line status, do not constitute revenue to the Corporation and may be collected on a weekly, monthly or annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended in *The Advocate* on December 24, 1991, re-promulgated in *The Advocate* on January 1, 1994, amended LR 26:711 (April 2000).

§519. Other Business of Retailers

A. A Retailer may not be engaged exclusively in the sale of Lottery Tickets. However, this Section 6 does not preclude the Corporation from contracting for the sale of Lottery Tickets with nonprofit, charitable organizations or units of local government in accordance with the provisions of these Retailer Regulations, the Louisiana Lottery Corporation Law and Louisiana Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended in *The Advocate* on December 24, 1991, re-promulgated LR 26:711 (April 2000).

§521. Duty to Update

A. Any information provided by a Retailer to the Corporation under these Retailer Regulations or on any application, filing or other instrument submitted to the Corporation that becomes incorrect or misleading shall immediately be updated by the Retailer by providing an explanation thereof to the Corporation. Without limiting the foregoing, a Retailer shall notify the Corporation immediately if any change in the ownership of the licensed retailer location occurs or of any conviction that would affect the Retailer's eligibility to obtain a retailer license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended in *The Advocate* on December 24, 1991, re-promulgated LR 26:711 (April 2000).

§523. Retailer Certificate

A. Each applicant that is accepted by the Corporation shall be issued a lottery retailer certificate, which shall be conspicuously displayed at the place where the Retailer is authorized to sell Lottery Tickets. Lottery Tickets shall only be sold by the Retailer at the location stated on the lottery retailer certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended in *The Advocate* on December 24, 1991, re-promulgated LR 26:712 (April 2000).

§525. Annual Renewal Required

A. There shall be an annual renewal process October through December 31 of each year for licenses obtained after January 1. If a license is obtained after October 1 the license shall not expire until the next succeeding calendar year. Expired licenses not renewed by December 31 shall be suspended and/or terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended LR 26:712 (April 2000).

§527. Assignability of Contracts

A. No Retailer contract awarded pursuant to these Retailer Regulations shall be transferable or assignable. No Retailer shall contract with any person for lottery goods or services except with the approval of the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:712 (April 2000).

§529. Suspension, Revocation or Termination of Contracts

A. Any Retailer contract may, for good cause, be suspended, revoked, or terminated by the President if the Retailer is found to have violated any provision of these Retailer Regulations, the Louisiana Lottery Corporation Law or objective criteria established by the Board. All Retailer contracts shall be renewable annually after issuance unless sooner canceled or terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:712 (April 2000).

§531. Cancellation of Contracts

A. Any contract executed by the Corporation pursuant to these Retailer Regulations and the Louisiana Lottery Corporation Law shall specify the reasons for which any contract may be canceled, suspended, revoked, or terminated by the Corporation, which reasons shall include but not be limited to:

- 1. commission of a violation of these Retailer Regulations, the Louisiana Lottery Corporation Law or administrative regulations adopted pursuant thereto or other provisions of Louisiana Law;
- 2. failure to accurately account for Lottery Tickets, revenues, or prizes as required by the Corporation;
- 3. commission of any fraud, deceit, or misrepresentation;

- 4. insufficient sale of tickets;
- 5. conduct prejudicial to public confidence in the lottery;
- 6. the Retailer filing for or being placed in bankruptcy or receivership;
- 7. any material change in any matter considered by the Corporation in executing the contract with the Retailer; or
- 8. failure to meet any of the objective criteria established by the Board pursuant to these Retailer Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:712 (April 2000).

§533. Power of President

A. If, in the discretion of the President, cancellation, denial, revocation, suspension, or rejection of renewal of a Retailer contract is in the best interests of the lottery, the public welfare, or the State of Louisiana, the President may cancel, suspend, revoke, or terminate, after notice and a hearing, any contract issued pursuant to these Retailer Regulations or the Louisiana Lottery Corporation Law. Such contract may, however, be temporarily suspended by the President without prior notice, pending any prosecution, hearing, or investigation, whether by a third party or by the President. A contract may be suspended, revoked, or terminated by the President for any one or more of the reasons enumerated in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:712 (April 2000).

§535. Retailer Security

A. The following rules shall apply to the retailer security, which Section 9053 of the Louisiana Lottery Corporation Law requires of Retailers.

B. The security shall consist of a letter of credit or bond issued by a bank or surety company acceptable to the Corporation. For purposes of this Section, the term "bond" shall include cash, cash-equivalent instruments or such other instruments as the Corporation determines provide immediate liquidity.

C. The security may be in an amount of no greater than two times the Retailer's average gross sales of Lottery Tickets for the period within which the Retailer is required to remit sales proceeds to the Corporation. The calculation of the security amount shall exclude the amount of Lottery Tickets for which the Retailer has paid in advance.

D. The security under this Section shall constitute security for all obligations of the Retailer to the Corporation pursuant to these Retailer Regulations or the Retailer's contract with the Corporation. The obligations of Retailers shall include, without limitation, the Retailer's obligation to remit sales proceeds and unsold Lottery Tickets to the Corporation. The Corporation may enforce the security immediately upon a Retailer's default in any such obligations for the full amount of the defaulted obligations up to the amount of the security, without affecting the Corporation's right to any deficiency. Enforcement shall occur by drawing

upon a letter of credit, request for payment under a bond or otherwise according to law.

E. In order to facilitate the acquisition of the required security by Retailers, the Corporation shall maintain the Retailer Security Account, a special banking account for the pooling of retailer security and the acquisition of a letter of credit or bond as required by §9053 of the Louisiana Lottery Corporation Law. In lieu of posting security, a Retailer having a security obligation may pay a non-refundable \$10.00 fee to the Corporation and the Corporation shall deposit this fee into the Retailer Security Account. Such fee may be increased or decreased by the Corporation from time to time. Upon any default by any Retailer, the Corporation may pay such defaulted obligations, up to the amount of the security required of the Retailer, from the letter of credit or bond secured by the Retailer Security Account. Upon such payment, the Retailer shall be obligated to reimburse the Corporation for the full amount of such defaulted obligation and the Corporation shall deposit the reimbursement into the Retailer Security Account. At the end of each fiscal year, the President and the Board may authorize inclusion of all or a portion of the unused amounts remaining in the Retailer Security Account at the end of the fiscal year in the revenues of the Corporation for the fiscal year.

F. The Retailer's authority to sell Lottery Tickets shall be suspended for any period in which the Retailer does not maintain the security required under this Section, but will be reinstated upon the reinstatement of the security. Failure to maintain adequate security shall be grounds for suspension or termination of a retailer contract and license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended LR 26:712 (April 2000).

§537. Change of Location or Ownership

A. Any change in location or ownership of the business of a Retailer will automatically suspend the Retailer's certificate. An application must be filed in the same manner as provided in these Retailer Regulations to reinstate the Retailer's certificate for the new location or the new owner of the business. Sales of Lottery Tickets are prohibited following a change in location or ownership of the business of a Retailer until a new lottery retailer certificate is issued to the new owner or location. The Corporation may employ necessary procedures to minimize interruptions in service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:713 (April 2000).

§539. Proceeds from Ticket Sales

A. All proceeds from the sale of Lottery Tickets received by a Retailer shall constitute a trust fund until paid to the Corporation either directly or through the Corporation's authorized collection representative. A Retailer shall have a fiduciary duty to preserve and account for lottery proceeds and Retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets received by a Retailer and cash proceeds of sale of any lottery products, net of allowable sales commissions and credit for lottery prizes to winners by Retailers. Sales proceeds and unused instant tickets shall be delivered to the Corporation or its

authorized collection representative upon demand. Retailers shall place all lottery proceeds due the Corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the Retailer until the date they are paid over to the Corporation. The Corporation may require a Retailer to establish a single separate electronic funds transfer account, where available, for the purpose of receiving monies from ticket sales, making payments to the Corporation, and receiving payments from the Corporation. Failure to have sufficient funds available to cover an electronic funds transfer to the Corporation's account shall be a cause for suspension or termination of a Retailer's contract and license. Unless otherwise authorized in writing by the Corporation, each Retailer shall establish a separate bank account for lottery proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets. This Section shall apply to all lottery tickets generated by computer terminal or other electronic devices and any other tickets delivered to Retailers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:713 (April 2000).

§541. Insolvency of Retailer

A. Whenever any person or Organization who receives proceeds from the sale of Lottery Tickets in the capacity of a Retailer becomes insolvent, or dies insolvent, the proceeds due the Corporation from such person or his, her or its estate shall have preference over all debts or demands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:713 (April 2000).

§543. Sales Commissions

A. A Retailer shall receive a sales commission equal to at least 5 percent of the gross proceeds from the sale of Lottery Tickets. In addition to the 5percent sales commission the Corporation may develop a system of bonuses and sales incentives based on dollar volume of business, the sale of winning tickets, or such other criteria as the Corporation may develop from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:713 (April 2000).

§545. Sale of Lottery Tickets on Credit

A. The Retailer shall not directly extend credit to the purchaser of Lottery Tickets, but Lottery Tickets may be sold for cash or by use of any credit card or similar instrument. Lottery Tickets may not be sold by mail (except for subscription sales established by the Corporation,) phone, fax or other similar method of communications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:713 (April 2000).

§547. Sales Price of Tickets

A. No person shall sell a Lottery Ticket at a price other than established by the Corporation, unless authorized in writing by the President. No person other than a duly certified Retailer shall sell Lottery Tickets, but this shall not be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery Tickets to another. Nothing in these Retailer Regulations shall be construed to prohibit the Corporation from designating certain of its agents and employees to sell Lottery Tickets directly to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:714 (April 2000).

§549. Promotional Tickets

A. Lottery Tickets may be given by merchants as a means of promoting goods or services to customers or prospective customers subject to the prior written approval by the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:714 (April 2000).

§551. Location of Sales

A. No Retailer shall sell a Lottery Ticket except from the locations listed in the Retailer's contract and certificate. No Lottery Tickets shall be sold at state of Louisiana rest stops.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:714 (April 2000).

§553. Payment of Prizes

A. Retailers shall pay any lottery prize of \$50 or less. A Retailer may pay prizes greater than fifty dollars, up to \$600, after proper verification of such winning tickets as prescribed by the Corporation. Prizes of more than \$600 shall be paid by the Corporation by mail or at a designated Corporation office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended and re-promulgated in *The Advocate* on December 24, 1991, re-promulgated LR 26:714 (April 2000).

§555. Required Purchases of Lottery Tickets

A. Failure of a Retailer to order Lottery Instant Tickets for any sixty day period may result in suspension of the Retailer's license, and the Corporation shall notify Retailer of such suspension. If the Retailer does not purchase Lottery Instant Tickets from the Corporation within thirty days after the date the notice of suspension is sent by the Corporation, the Retailer's license may be terminated and the Retailer shall pay all debts due the Corporation within thirty days of such termination. The aggregate of all orders for Lottery Tickets placed after the date of a notice of suspension and before the expiration of such thirty day period must be equal to at least the highest amount of Lottery Tickets purchased by the Retailer for any of its last three purchases or the retailer license shall be automatically terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended LR 26:714 (April 2000).

§557. Computation of Rental Payments

A. If a Retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and such computation of retail sales is not explicitly defined to include sales of tickets in a state lottery, the compensation received by the Retailer from the lottery shall be considered the amount of retail sale for purposes of computing the rental payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:714 (April 2000).

§559. Equipment Payment or Deposit

A. An equipment payment or deposit may be required for any equipment provided by the Corporation to a Retailer; provided that such charges shall be uniform and that any deposits will be returned upon the return of such equipment in good operating condition. All or any portion of a deposit may be retained by the Corporation if any equipment is damaged, destroyed, lost, stolen or otherwise made unavailable or unusable for normal operations. Upon receipt of written notice from a Retailer, the Corporation may transfer the equipment deposit of a Retailer, which has created a new entity at the same location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended LR 26:714 (April 2000).

§561. Reimbursement of Equipment Payment

A. The Corporation may purchase the terminals of Retailers who purchased their equipment if the Corporation determines that such purchase is in the best interest of the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:714 (April 2000).

§563. Security Procedures

A. A Retailer shall provide reasonable security for all Lottery Tickets and other Corporation property and is responsible for all Lottery Tickets delivered to it upon the Retailer's acknowledgment of receipt thereof. A Retailer shall notify the Corporation within twenty-four hours of any lost, stolen, missing or counterfeit tickets. The Corporation shall not be liable for any event not reported within such time period, and may reimburse or credit a Retailer for any tickets affected thereby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:714 (April 2000).

§565. Retailer Records

A. Each Retailer shall keep accurate and complete records of all transactions with the Corporation, and such records shall be open to inspection by the Corporation at all

times during normal business hours. The Corporation may make summaries or notes of any such records and may copy any such records either at the Retailer's place of business or, if more convenient, off of such premises so long as such records are returned within forty eight hours of the time they are withdrawn from such place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:714 (April 2000).

§567. Training School

A. Retailers shall be required to send at least one person to training sponsored by the Corporation. The Corporation, at its discretion, may waive the training of Retailers who have previous lottery experience on the operation of lottery equipment and accounting procedures. The Corporation shall encourage Retailers to have new employees attend a training session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended LR 26:715 (April 2000).

§569. Compliance with All Applicable Laws

A. Each Retailer agrees to operate in a manner consistent with the Louisiana Lottery Corporation Law, applicable federal laws, Louisiana Laws and local ordinances, the rules and regulations promulgated by the Corporation and with his, her or its contract with the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, re-promulgated LR 26:715 (April 2000).

§571. Merchandising

A. Each Retailer agrees to offer no less than four (4) instant games for sale to the public at all times if four (4) or more instant games are available from the Corporation. The Retailer shall use a Lottery Ticket dispenser for the sale of Lottery Tickets, and shall place the dispenser in a prominent location in the retail establishment near the cash register or checkout area. The Retailer shall prominently display point-of-sale materials supplied by the Corporation, including door decals, game posters, display tickets, danglers, change mats and lighted interior signs, unless the Corporation agrees otherwise in writing. The Retailer shall make Lottery Tickets available, and shall provide for redemption of winning Lottery Tickets, for the full duration of the Retailer's normal business hours, provided that the hours for redemption may be subject to limitation on the availability of validation of winning Lottery Tickets by the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended LR 26:715 (April 2000).

§573. Appeals

A. The procedures stated in this part apply to an appeal of a Corporation determination by a retailer or a person seeking to become a retailer under Section 9017 of the Louisiana Lottery Corporation Law.

B. Prior to making an appeal, an appellant must send the President a request letter stating the action of which the appellant seeks modification and all reasons the appellant advances for modification. The request letter must state the appellant's name and address, must enclose copies of all documents relevant to the request and must be signed by the appellant. The appellant must represent that all facts stated in the request letter are correct to the best knowledge of the appellant. The President shall respond to the request letter in writing within ten days of the Corporation's receipt of it, stating all reasons for the response.

C. An appellant may appeal the President's denial of all or any part of the appellant's request stated in the appellant's request letter by sending the President a notice of appeal. The notice of appeal shall be effective only if it is in writing, states the substance and basis of the appeal, and is received by the Corporation within 10 days of the appellant's receipt of the President's letter denying the appeal. The notice may request that the hearing be expedited, provided that such a request shall constitute an undertaking by the appellant to pay the costs assessable under Section 5 of this Part. Upon receipt of a notice of appeal, the President shall deliver the notice, the appellant's request letter and the President's denial letter to the Board.

D. The Board shall consider the appeal at its next regular meeting to occur 5 or more days after receipt of the notice of appeal. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act. The Chairman may call a special meeting of the board to hear an appeal if the appellant has requested an expedited hearing and the Chairman in his sole discretion believes that the appeal warrants an expedited hearing. The President shall give the appellant reasonable notice of the time and location of the Board meeting. The appellant shall be permitted to present the appeal orally for a time period determined by the Board. The presentation may not include points or subjects which were not included in the appellant's request letter. The Corporation shall keep a complete record of the hearing and shall make it available to the appellant. The Board shall render its decision on the appeal by majority vote within 5 days after conclusion of the hearing.

E. If the appellant requested an expedited hearing, the Board conducts the hearing at a special meeting, and the Board denies the appeal, the Board may charge the appellant the Corporation's reasonable costs incurred in connection with the special meeting, including any travel and per diem expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended LR 26:715 (April 2000).

§575. Amendment

A. These Retailer Regulations may be amended in accordance with the provisions of Part D of the Bylaws and Rules of Procedure of the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Lottery Corporation in *The State Times* on May 21, 1991, amended and re-promulgated in *The Advocate* on January 1, 1994, re-promulgated LR 26:716 (April 2000).

Charles R Davis
President

0004#010

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Electronic Gaming Devices (LAC 42:XIII.Chapter 42)

The Gaming Control Board hereby adopts LAC 42:XIII.4201 et seq. and repeals LAC 42.XIII.4327-4357.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 42. Electronic Gaming Devices

§4201. Division's Central Computer System (DCCS)

A. Pursuant to R.S. 27:114, the Legislature of Louisiana has mandated that all electronic gaming devices on all riverboats shall be linked by telecommunications to a central computer system for purposes of monitoring and reading device activities.

B. The DCCS shall be located within and administrated by the Division, and shall be on line and completely functional by June 1, 2000.

C. The DCCS shall be capable of monitoring and reading financial aspects of each electronic gaming device such as:

1. coin in, coin out, coins to the drop, games played, hand paid jackpots, bills/paper currency accepted, and bills/paper currency by denomination accepted shall all be reported to the central computer system;

2. any device malfunction that causes any meter information to be altered, cleared, or otherwise inaccurate may require immediate disablement of the electronic gaming device from patron play by the Division. The Licensee shall report the malfunction to the Division within four hours after the occurrence;

3. no electronic gaming device shall be enabled for patron play after a meter malfunction as described in §4201C.2 until authorized by a Division agent;

4. meter information required in C.1 of this Section will have been reported and documented by the central computer system on a previous event and will be used to provide all meter information prior to the device malfunction. Subsequent adjustments after the meter malfunction shall document a "meter reasonableness" as determined by the following procedures:

a. the meter information recorded prior to the device malfunction shall be verified as accurate by an operator of the DCCS;

b. a coin and bill validator test shall be performed on the electronic gaming device in the presence of a Division agent;

c. upon successful completion of the coin and bill validator test, all final meter information shall be documented on forms prescribed by the Division; and

d. the final meter information shall be reported to the DCCS operator and all final meter information shall be entered into the central computer system prior to the enablement of the electronic gaming device for patron play.

D. The DCCS shall provide for the monitoring and reading of exception code reporting to insure direct scrutiny of conditions detected and reported by the electronic gaming device, including any tampering, device malfunction, and any door opening to the drop areas, with exception of the drop team:

1. exception or event codes that signal illegal door opening(s) shall necessitate an investigation by a Division agent, which may result in an administrative action against the Licensee;

2. all events that can be reported by an electronic gaming device shall be transmitted to the DCCS. Examples of the events reported are, but not limited to, as follows:

- a. machine power loss;
- b. main door open/closed;
- c. BVA or stacker accessed;
- d. hard drop door open/closed;
- e. logic board accessed;
- f. reel tilt;
- g. hopper empty;
- h. excess coin dispensed by the hopper;
- i. hopper jam;
- j. coin diverter error;
- k. battery low;
- l. jackpot win;
- m. jackpot reset;
- n. logic board failure.

3. In the event of any exception or event code, or combination thereof which may indicate inappropriate meter readings, that is reported to the DCCS, the Division may require the disablement of the electronic gaming device.

E. No new electronic gaming device or EGD monitoring system shall be authorized for operation unless the electronic gaming device or EGD monitoring system meets the minimum requirements of §4201.

F. The DCCS shall not provide for the monitoring or reading of personal or financial information concerning any patron's gaming activities conducted on a riverboat.

G. Any new electronic gaming device placed on line and enabled for patron play shall have the annual fee required by R.S. 27:114 paid prior to placement into operation for patron play.

H. The payment of the electronic gaming device fee shall be made in such manner as prescribed by the Division.

I. Any reference to slot machine or slots in this LAC 42:XIII.Chapter 42 includes all electronic gaming devices, herein referred to as EGD's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:716 (April 2000).

§4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers

A. A manufacturer or supplier shall not sell, lease or distribute EGD's or equipment in this state and a licensee shall not offer EGD's for play without first obtaining the requisite permit or license and obtaining prior approval by the Division/Board for such action. This section shall not apply to those manufacturers or suppliers licensed or permitted to sell, lease or distribute EGD's or equipment in the state to an entity licensed under a provision of state law other than the Administrative Rules when those manufacturers or suppliers are selling or distributing to such licensed entity.

B. Applications for approval of a new EGD shall be made and processed in such manner and using such forms as the Division may prescribe. Licensees may apply for approval of a new EGD. Each application shall include, in addition to such other items or information as the Division may require:

1. a complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device operates, signed under penalty of perjury; and

2. a statement, under penalty of perjury, that to the best of the applicant's knowledge, the EGD meets the standards set forth in LAC 42:XIII.Chapter 42.

C. No game or EGD other than those specifically authorized in this LAC 42:XIII.Chapter 42 may be offered for play or played on a riverboat except that the Division may authorize the operation of progressive electronic EGD's as part of a network of separate gaming operations licensed by the Division with an aggregate prize or prizes.

D. Approval shall be obtained from the Division prior to changing, adding, or altering the casino configuration once such configuration has received final Divisional approval. For the purpose of this section, altering the casino configuration does not include the routine movement of EGD's for cleaning and/or maintenance purposes.

E. All components, tools, and test equipment used for installation, repair or modification of EGD's shall be stored in the slot technician repair office, or in a Division approved locked storage area. Such office/storage area shall be kept secure, and only authorized personnel shall have access.

1. Any compartment or room that contains communications equipment used by the EGD's and the EGD monitoring system shall be kept secure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:717 (April 2000).

§4203. Minimum Standards for Electronic Gaming Devices

A. All EGD's submitted for approval:

1. shall be electronic in design and operation and shall be controlled by a microprocessor or micro-controller or the equivalent;

2. shall theoretically pay out a mathematically demonstrable percentage of all amounts wagered, which shall not be less than 80 percent and not more than 99.9 percent for each wager available for play on the device;

3. shall use a random selection process to determine the game outcome of each play of a game. The random selection process shall meet 99 percent confidence limits using a standard chi-squared test for goodness of fit and in addition:

a. each possible permutation or combination of game elements which produce winning or losing game outcomes shall be available for random selection at the initiation of each play; and

b. the selection process shall not produce detectable patterns of game elements or detectable dependency upon any previous game outcome, the amount wagered, or upon the style or method of play;

4. shall display an accurate representation of the game outcome. After selection of the game outcome, the EGD shall not make a variable secondary decision which affects the result shown to the player;

5. shall display the rules of play and payoff schedule;

6. shall not automatically alter pay-tables or any function of the device based on internal computation of the hold percentage;

7. shall be compatible to on-line data monitoring;

8. shall have a separate locked internal enclosure within the device for the control circuit board and the program storage media;

9. shall be able to continue a game with no data loss after a power failure;

10. shall have current game and the previous two games data recall;

11. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

12. shall contain a surge protector on the line that feeds power to the device. The battery backup or an equivalent for the electronic meter information shall be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the device. The backup shall be kept within the locked logic board compartment;

13. shall have an on/off switch that controls the electrical current used in the operation of the device which shall be located in an accessible place within its interior;

14. shall be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

15. shall have at least one electronic coin acceptor and may be equipped with an approved currency acceptor. Coin and currency acceptors shall be designed to accept designated coins and currency and reject others. The coin acceptor on a device shall be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All types of coin and currency acceptors are subject to the approval by the Division. The control program shall be capable of handling rapidly fed coins so that occurrences of inappropriate "coin-ins" are prevented;

16. shall not contain any unsecured hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

17. shall contain a non-removable identification plate containing the following information, appearing on the exterior of the device:

- a. manufacturer;
- b. serial number; and
- c. model number;

18. shall have a communications data format from the EGD to the EGD monitoring system approved by the Division;

19. shall be capable of continuing the current game with all current game features after a malfunction is cleared. This rule does not apply if a device is rendered totally inoperable. The current wager and all credits appearing on the screen prior to the malfunction shall be returned to the patron;

20. shall have attached a locked compartment separate from any other compartment of the device for housing a drop bucket. The compartment shall be equipped with a switch or sensor that provides detection of the drop door opening and closing by signaling to the EGD monitoring system;

21. shall have a locked compartment for housing currency, if so equipped with a currency acceptor;

22. shall, at a minimum, be capable of detecting and displaying the following error conditions which an attendant may clear:

- a. coin-in jam;
- b. coin-out jam;
- c. currency acceptor malfunction or jam;
- d. hopper empty or time-out;
- e. program error;
- f. hopper runaway or extra coin paid out;
- g. reverse coin-in;
- h. reel error; and
- i. door open;

23. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

24. shall have a mechanical, electrical, or electronic device that automatically precludes a player from operating the device after a jackpot requiring a manual payout and requires an attendant to reactivate the device; and

25. shall be outfitted with any other equipment required by this LAC 42:XIII.Chapter 42.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:717 (April 2000).

§4204. Progressive Electronic Gaming Devices

A. This section authorizes the use of progressive EGD's within one riverboat provided that the EGD's meet the requirements stated in this LAC42:XIII.Chapter 42 and any additional requirements imposed by the Administrative Rules, the Board, or the Division.

B. Wide area progressive games that link EGD's located on more than one riverboat shall be approved by the Board and Division on a case-by-case basis.

C. Progressive EGD's Defined

1. A progressive EGD is an electronic gaming device with a payoff that increases uniformly as the EGD or another device on the same link is played.

2. Base amount means the amount of the progressive jackpot offered before it increases.

3. "Incremental amount" means the difference between the amount of a progressive jackpot and its base amount.

4. A progressive jackpot may be won where certain pre-established criteria, which does not have to be a winning combination, is satisfied.

5. A bonus game where certain circumstances are required to be satisfied prior to awarding a fixed bonus prize is not a progressive EGD and is not subject to this LAC 42:XIII.Chapter 42.

D. Transferring of Progressive Jackpot which is in play.

1. A progressive jackpot which is currently in play may be transferred to another progressive EGD on the riverboat in the event of :

- a. EGD malfunction;
- b. EGD replacement; or
- c. other good reason deemed appropriate by the Division to ensure compliance with this LAC 42:XIII.Chapter 42.

2. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the Division.

E. Recording, Keeping and Reconciliation of Jackpot Amount

1. The licensee shall maintain a record of the amount shown on a progressive jackpot meter on the riverboat and/or dockside premises. The progressive jackpot meter information shall be read and documented, at a minimum, every twenty-four hours. Electronic meter information shall be recorded when a primary jackpot occurs on an EGD.

2. Supporting documents shall be maintained to explain any reduction in the payoff amount from a previous entry.

3. The records and documents shall be retained for a period of five years.

4. The Licensee shall confirm and document, on a quarterly basis, that proper communication was maintained on each EGD linked to the progressive controller during that time.

5. The Licensee shall record the progressive liability on a daily basis.

6. The Licensee shall review, on a quarterly basis, the incremented rate and reasonableness of the progressive liability by either a physical coin-in test or by meter readings to calculate incremental coin-in multiplied by the rate incremented to arrive at the increase in, and reasonableness of, the progressive jackpot amount.

7. Each Licensee shall formally adopt the manufacturer's specified internal controls for wide area progressive EGD's, as approved by the Division, as part of the Licensee's system of internal controls.

F. The Progressive Meter

1. The EGD shall be linked to a progressive meter or meters showing the current payoff to all players who are playing an EGD which may potentially win the progressive amount. A meter that shows the amount of the progressive jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

G. Consistent Odds on Linked EGD's

1. When more than one progressive EGD is linked together, each EGD in the link shall be the same

denomination, same coin in multiplier, and have the same probability of hitting the combination that will award the progressive jackpot or jackpots as every other machine in the link.

H. Operation of Progressive Controller-Normal Mode

1. During the normal operating mode of the progressive controller, the controller shall do the following:

- a. continuously monitor each EGD attached to the controller to detect inserted coins or credits wagered;
- b. multiply the accepted coins by the programmed rate of progression in order to determine the correct amounts to apply to the progressive jackpot.

2. The progressive display shall be constantly updated as play on the link is continued. It will be acceptable to have a slight delay in the update so long as when a jackpot is triggered the jackpot amount is shown immediately.

I. Operation of Progressive Controller-Jackpot Mode

1. When a progressive jackpot is recorded on an EGD which is attached to the progressive controller or another attached approved component or system (hereinafter progressive controller), the progressive controller shall allow for the following:

- a. display of the winning amount;
- b. display of the EGD identification that caused the progressive meter to activate if more than one EGD is attached to the controller.

2. The progressive controller is required to send to the EGD the amount that was won. The EGD is required to update its electronic meters to reflect the winning jackpot amount consistent with this LAC 42:XIII.Chapter 42.

3. When more than one progressive EGD is linked to the progressive controller, the progressive controller shall automatically reset to the reset amount and continue normal play. During this time, the progressive meter or another attached approved component or system shall display the following information:

- a. the identity of the EGD that caused the progressive meter to activate;
- b. the winning progressive amount;
- c. the new normal mode amount that is current on the link.

4. A Wide Area progressive EGD and/or a progressive device where a jackpot of \$100,000 or more is won shall automatically enter into a non-play mode which prohibits additional play on the device after a primary jackpot has been won on the device. Upon conclusion of necessary inspections and tests by the Division, the device may be offered for play.

J. Alternating Displays

1. When this procedure prescribes multiple items of information to be displayed on a progressive meter, it is sufficient to have the information displayed in an alternating fashion.

K. Security of Progressive Controller

1. Each progressive controller linking two or more progressive EGD's shall be housed in a double keyed compartment in a location approved by the Division. All keys shall be maintained in accordance with LAC 42:XIII.Chapter 27 of the Administrative Rules.

2. The Division may require possession of one of the keys.

3. Persons having access to the progressive controller shall be approved by the Division.

4. A list of persons having access to a progressive controller shall be submitted to the Division.

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the Division and completed by each individual who gains entrance to the controller.

2. Security restrictions shall be submitted in writing to the Division for approval at least sixty days before their enforcement. All restrictions approved by the Division shall be made on a case by case basis in the case of a stand-alone progressive where the controller is housed in the logic area.

3. The progressive controller shall keep the following information in nonvolatile memory which shall be displayed upon demand:

- a. the number of progressive jackpots won on each progressive level if the progressive display has more than one winning amount;
- b. the cumulative amounts paid on each progressive level if the progressive display has more than one winning amount;
- c. the maximum amount of the progressive payout for each level displayed;
- d. the minimum amount or reset amount of the progressive payout for each level displayed;
- e. the rate of progression for each level displayed.

M. Limits on Jackpot of Progressive EGD's

1. A Licensee may impose a limit on the jackpot of a progressive EGD if the limit imposed is greater than the possible maximum jackpot payout on the EGD at the time the limit is imposed. The riverboat licensee shall inform the public with a prominently posted notice of progressive EGD's and their limits.

N. Licensee shall not reduce the amount displayed on a progressive jackpot meter or otherwise reduce or eliminate a progressive jackpot unless:

1. a player wins the jackpot;
2. the licensee adjusts the progressive jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to §4204.M and the licensee documents the adjustment and the reasons for it;
3. the licensee's gaming operations at the establishment cease for any reason other than a temporary closure where the same licensee resumes gaming operations at the same establishment within a month;
4. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment and:
 - a. the licensee documents the distribution;
 - b. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;
 - c. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.B; and
 - d. The distribution is completed within thirty days after the progressive jackpot is removed from play or within

such longer period as the Division may for good cause approve; or

e. the Division approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which approval is confirmed in writing;

5. licensees shall preserve the records required by this section for at least five years.

O. Individual Progressive EGD Controls

1. Individual EGD's shall have a minimum of seven electronic meters, including a coin-in meter, drop meter, jackpot meter, win meter, hand paid jackpot meter, progressive hand paid jackpot meter and a progressive meter.

P. Link progressive EGD controls.

1. Each machine shall require the same number of tokens be inserted to entitle the player to a chance at winning the progressive jackpot and every token shall increment the meter by the same rate of progression as every other machine in the group.

2. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current "Current Progressive Jackpot Amount."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:718 (April 2000).

§4205. Computer Monitoring Requirements of Electronic Gaming Devices

A. The Licensee shall have a computer connected to all EGD's on the riverboat to record and monitor the activities of such devices. No EGD's shall be operated unless it is on-line and communicating to a computer monitoring system approved by a designated gaming laboratory specified by the Division/Board. Such computer monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the Division.

1. Any occurrence of malfunction or interruption of communication between the EGD's and the EGD monitoring system shall immediately be reported to the Division for determination of further action to be taken. These malfunctions include, but are not limited to, system down for maintenance or malfunctions, zeroed meters, invalid meters and any variance between EGD drop meters and the actual count of the EGD drop.

2. Prior written approval from the Division is required before implementing any changes to the computerized EGD monitoring system or adopting manual procedures for when the computerized EGD monitoring system is down.

3. Each and every modification of the software shall be approved by a designated gaming laboratory specified by the Division/Board.

B. The computer permitted by subparagraph of this Subsection shall be designed and operated to automatically perform and report functions relating to EGD meters, and other exceptional functions and reports in the riverboat as follows:

1 record the number and total value of tokens placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of tokens deposited in the drop bucket of the EGD;

4. record the number and total value of tokens automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of tokens to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the drop area. In addition, any person opening the EGD or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the drop team,

7. be capable of logging in and reporting any revenue transactions not directly monitored by token meter, such as tokens placed in the EGD as a result of a fill, and any tokens removed from the EGD in the form of a credit;

8. identify any EGD taken off-line or placed on-line of the computer monitor system, including date, time, and EGD identification number; and

9. report the time, date and location of open doors or error conditions, as specified in §4201.D.2, by each EGD.

C. The Licensee shall store, in machine-readable format, all information required by paragraph b for the period of five years. The Licensee shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a Division agent in the format and media approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:720 (April 2000).

§4206. Employment of Individual to Respond to Inquires From the Division

Each manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the Division to any inquires from him concerning the EGD or any modifications to the device. Each manufacturer shall on or before December 31 of each year report in writing the name of the individual designated pursuant to this section and shall report in writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:720 (April 2000).

§4207. Evaluation of New Electronic Gaming Devices

A. The Division may require transportation of not more than two working models of a new EGD to a designated gaming laboratory for review and inspection. The manufacturer seeking approval of the device shall pay the cost of the inspection and investigation. The designated gaming laboratory may dismantle the models and may destroy electronic components in order to fully evaluate the

device. The Division/Board may require that the manufacturer provide specialized equipment or the services of an independent technical expert to evaluate the device.

B. The Division/Board may require the manufacturer or supplier seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the equipment, and may employ an outside designated gaming laboratory to conduct the evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:720 (April 2000).

§4208. Certification by Manufacturer

A. After completing its evaluation of a new EGD, the lab shall send a report of its evaluation to the Division/Board and the manufacturer seeking approval of the device. The report shall include an explanation of the manner in which the device operates. The manufacturer shall return the report within fifteen (15) days and shall either:

1. certify under penalty of perjury that to the best of its knowledge the explanation is correct; or
2. make appropriate corrections, clarifications, or additions to the report and certify under penalty of perjury that to the best of its knowledge the explanation of the EGD is correct amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:721 (April 2000).

§4209. Approval of New Electronic Gaming Devices

A. After completing its evaluation of the new EGD, the Division/Board shall determine whether the application for approval of the new EGD should be granted. In considering whether a new EGD will be given final approval, the Division/Board shall consider whether approval of the new EGD is consistent with LAC 42:XIII.Chapter 42. Division/Board approval of a EGD does not constitute certification of the device's safety.

1. Equipment Registration and Approval
 - a. All electronic or mechanical EGD's shall be approved by the Division/Board and/or its approved designated gaming laboratory and registered by the Division prior to use.
 - b. The following shall not be used for gaming by any licensee without prior written approval of the Division:
 - i. bill acceptors or bill validators;
 - ii. coin acceptors;
 - iii. progressive controllers;
 - iv. signs depicting payout percentages, odds, and/or rules of the game;
 - v. associated gaming equipment as provided for in LAC 42:XIII.Chapter 42 of the Administrative Rules.
 - c. The licensee and/or manufacturer's request for approval shall describe with particularity the equipment or device for which the Division/Board's approval is requested.
 - d. The Division/Board may request additional information or documentation prior to issuing written approval.
2. Testing
 - a. The following shall be tested prior to registration or approval for use:

- i. all EGD's;
- ii. EGD monitoring systems;
- iii. any other device or equipment as the Division/Board may deem necessary to ensure compliance with this.

3. The Division/Board may employ the services of a designated gaming laboratory to conduct testing.

i. Any new EGD not presently approved by the Division/Board shall first meet the approval and testing criteria of the Division/Board's recognized designated gaming laboratory, who shall evaluate and test the product and issue a written opinion to the Division/Board of all test results. The Licensee, manufacturer or supplier shall incur all costs associated with the testing of the product. This may include costs for field test, travel, laboratory test, and/or other associated costs. Failure on the part of the requesting party to timely pay these cost may be grounds for the denial of the request and cause for enforcement action by the Division. Recommendations of approval by the designated gaming laboratory with regard to program approval(s) shall constitute Division/Board approval and do not require separate written approval by the Division/Board. Other test determinations shall be reviewed by the Division/Board and a written decision shall be issued by the Division/Board. In situations wherein the need for specific guidelines and internal controls are required, the Division/Board will work in concert with the designated gaming laboratory to develop guidelines for each Licensee. Licensees shall be required to comply with these guidelines and they shall become part of the Licensee's system of internal controls. At no time shall an unauthorized program, gaming device, associated equipment and/or component be installed, stored, possessed, or offered for play by a Licensee, Permittee, its agent, representative, employee or other person in the Louisiana Riverboat Gaming Industry.

4. Registration and/or approval shall not be issued unless payment for all costs of testing is current.

5. Registration, approval, or the denial of EGD's, or any other device or equipment shall be issued in accordance with the Administrative Rules, and/or this LAC 42:XIII.Chapter 42.

6. EGD's shall meet all specifications as required in §4203 and shall meet the following security and audit specifications:

- a. be controlled by a microprocessor;
 - b. be connected and communicating to an approved on-line EGD monitoring system;
 - c. have an internal enclosure for the circuit board which is locked or sealed, or both, prior to and during game play;
 - d. be able to continue a game with no loss of data after a power failure;
 - e. have game data recall for the current game and the previous two games;
 - f. have a random selection process that satisfies the 99% confidence level using the following test:
 - i. standard chi-squared;
 - ii. runs;
 - iii. serial correlation.
- (Note: These tests shall not be predictable by players.)
- g. clearly display applicable rules of play and the payout schedule;

h. display an accurate representative of each game outcome utilizing:

- i. rotating wheels;
- ii. video monitoring; or
- iii. any other type of display mechanism that accurately depicts the outcome of the game.

6. All EGD's shall be registered with the Division/Board and shall have a registration sticker affixed to the device on a viewable, accessible location on the interior of the frame of the EGD. It is incumbent on each licensee to ensure that the registration sticker is properly affixed and is valid. In the event the registration sticker becomes damaged or voided, the licensee shall immediately notify the Division/Board in writing. The Division shall issue a replacement sticker and re-register the device as soon as practical.

7. All EGD's shall be located within the designated gaming area. This is inclusive of all "Free Pull" machines or similar devices. A device which is not in use may be stored in a secured area if approved in writing by the Division.

8. Each licensee shall maintain a current inventory report of all EGD's and equipment. The inventory report shall include, but is not limited to, the following:

- a. the serial number assigned to the EGD by the manufacturer;
- b. the registration number issued by the Division;
- c. the type of game the EGD is designed and used for;
- d. the denomination of tokens or coins accepted by each EGD;
- e. the location of EGD's equipped with bill validators and any bill validators that stand alone;
- f. The manufacturer of the EGD;
- g. The location or house number of the EGD.

9. This inventory report shall be submitted to the Division's Operational Section on a diskette, in a data text format, upon request by the Division/Board.

10. All EGD's offered for play shall be given a "House Number" by the licensee. This house number shall not be altered or changed without prior written approval from the Division. The licensee shall issue the "House Numbers" in a systematic manner which provides for easy recognition and location of the device's location. This number shall be a part of the licensee's "On-Line Computer EGD Monitoring System", and shall be displayed, in part, on all on-line system reports. Each EGD shall have its respective house number attached to the device in a manner which allows for easy recognition by Division personnel and surveillance cameras.

11. Control Program Requirements

a. EGD control programs shall test themselves for possible corruption caused by failure of the program storage media.

b. The test methodology shall detect 99.99 percent of all possible failures.

c. The control program shall allow for the EGD to be continually tested during game play.

d. The control program shall reside in the EGD which is contained in a storage medium not alterable through any use of the circuitry or programming of the EGD itself.

e. The control program shall check the following:

- i. corruption of RAM locations used for crucial EGD functions;
- ii. information relating to the current play and final outcome of the two prior games;
- iii. random number generator outcome;
- iv. error states.

f. The control RAM areas shall be checked for corruption following game initiation, but prior to display of the game outcome to the player.

g. Detection of corruption is a game malfunction that shall result in a tilt condition which identifies the error and causes the EGD to cease further function.

h. The control program shall have the capacity to display a complete play history for the current game and the previous two games.

i. The control program shall display an indication of the following:

- i. the game outcome or a representative equivalent;
- ii. bets placed;
- iii. credits or coins paid;
- iv. credits or coins cashed out;
- v. any error conditions.

j. The control program shall provide the means for on-demand display of the electronic meters via a key switch or other mechanism on the exterior of the EGD.

12. Accounting Meters

a. all EGD's shall be equipped with electronic meters;

b. all EGD's electronic meters shall have at least eight digits;

c. all EGD's shall tally totals to eight digits and be capable of rolling over when the maximum value is reached;

d. the required electronic meters are as follows:

i. the coin-in meter shall cumulatively count the number of coins wagered by actual coins inserted or credits bet, or both;

ii. the coin-out meter shall cumulatively count the number of coins that are paid by the hopper as a result of a win, or credits that are won, or both;

iii. the coins-dropped meter shall maintain a cumulative count of the number of coins that have been diverted into a drop bucket and credit value of all bills inserted into the bill validator for play;

iv. the jackpots-paid meter shall reflect the cumulative amounts paid by an attendant for all jackpots;

v. the games-played meter shall display the cumulative number of games played (handle pulls);

vi. the drop door meter shall display the number of times the drop door was opened;

vii. if the EGD is equipped with a bill validator, the device shall be equipped with a bill validator meter that records

(a). the total number of bills that were accepted,

(b). a breakdown of the number of each denomination of bill accepted; and

(c). the total dollar amount of bills accepted.

e. EGD's shall be designed so that replacement of parts, modules, or components required for normal maintenance does not affect the electronic meters.

f. EGD's shall have meters which continuously display the following information relating to the current play or monetary transaction:

- i. the number of coins or credits wagered in the current game;
- ii. the number of coins or credits won in the current game, if applicable;
- iii. the number of coins paid by the hopper for a credit cash out or a direct pay from a winning outcome;
- iv. the number of credits available for wagering, if applicable.

g. Electronically stored meter information required by this section shall be preserved after power loss to the EGD by battery backup and be capable of maintaining accuracy of electronically stored meter information for a period of at least 180 days.

13. No EGD may have a mechanism that causes the electronic accounting meters to clear automatically when an error occurs.

14. Clearing of the electronic accounting meters, other than due to a malfunction, may be done only if approved in writing by the Division. Meter readings, as prescribed by the Division, shall be recorded before and after any electronic accounting meter is cleared or a modification is made to the device.

15. Hopper

a. EGD's shall be equipped with a hopper which is designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

- i. jammed coins;
- ii. extra coins paid out;
- iii. hopper runaways;
- iv. hopper empty conditions.

b. The EGD control program shall monitor the hopper mechanism for these error conditions in all game states in accordance with this LAC 42:XIII.Chapter 42.

c. All coins paid from the hopper mechanism shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

d. Hopper pay limits shall be designed to permit compliance by licensees with all applicable taxation laws, rules, and regulations.

16. Communication Protocol

a. An EGD which is capable of a bi-directional communication with internal or external associated equipment shall use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the EGD.

17. EGD's installed and/or modified shall be inspected and/or tested by Division Agents prior to offering these devices for live play. Accordingly, no device shall be operated unless and until each regulated program storage media has been tested and sealed into place by Division Agent(s). The Division's security tape shall at all times remain intact and unbroken. It is incumbent on the licensee to routinely inspect every device to ensure compliance with this procedure. In the event a licensee discovers that the security tape has been broken or tampered with, the power to the EGD shall be immediately turned off, surveillance shall be immediately notified and shall take a photograph of the logic board. The board shall be maintained in the surveillance office until a Division Agent has the

opportunity to inspect the board. A copy of the device's "meal" card shall be made and shall accompany the board.

18. No Licensee or other person shall modify an EGD without prior written approval from the Division. A request shall be made by completing form(s) prescribed by the Division/Board and filing it with the respective field office. The Licensee shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for enforcement action.

19. EGD's shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

a. The EGD shall pay out at least 80 percent and not more than 99.9 percent of the amount wagered.

b. The theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage.

c. An EGD shall have a probability of obtaining the maximum payout greater than one in 50,000,000.

d. An EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

20. Modifications to an EGD's program shall be considered only if the new program has been approved by the designated gaming laboratory, and if the existing program has met the minimum requirements as set forth herein. The minimum program change requirements are unique to each program (program storage media). Therefore, it is not practical to list each one. In general, a program shall meet the 99 percent confidence interval range of 80 percent to ninety nine point 99.9 percent prior to being removed or replaced. As stated, this confidence interval varies by program and manufacturer. The confidence interval is determined by the designated gaming laboratory who tests each program and determines the interval. For the purpose of these procedures, an interval shall be determined by the games played on the existing program. An EGD's program shall not be approved for change unless the existing program has met or exceeded the minimum of one hundred thousand required games played. Exceptions to this procedure are those situations in which it can be reasonably determined that a program chip is defective or malfunctioning, or during a 90 day trial period of a newly approved program.

21. A licensee shall be allowed to test, on a limited basis, newly approved programs. The licensee shall file an EGD 96-01 form and indicate in field 21 that the request is for a 90 trial period. Failure to do so may be grounds for denial of the request to remove the program prior to reaching the 99.9 percent confidence interval. The licensee, upon approval, shall be allowed to test the program and will be allowed to replace it during this 90 day period with cause. If a request to replace the test program is not filed with the Division prior to the expiration of the 90 day approval, the program shall not be replaced and the program replacement criteria as stated in these procedures shall be applicable.

22. When an approved denomination change is made to an EGD which used or uses tokens, the licensee shall make necessary adjustments to the initial hopper fill listed on the Daily Fee Remittance Summary. Additionally, an adjustment shall be made to the Daily Fee Remittance Summary to

reflect the change in the initial hopper fill each time an EGD is taken off the floor or out of play. A final drop shall be made for that machine, including the hopper. The initial hopper load should be deducted to determine the final net drop for the device.

23. Randomness Events/Randomness Testing

a. Events in EGD's are occurrences of elements or particular combinations of elements which are available on the particular EGD.

b. A random event has a given set of possible outcomes which has a given probability of occurrence called the distribution.

c. 2 events are called independent if the following conditions exist.

i. the outcome of one event has no influence on the outcome of the other event;

ii. the outcome of one event does not affect the distribution of another event.

d. An EGD shall be equipped with a random number generator to make the selection process. A selection process is considered random if the following specifications are met:

i. the random number generator satisfies at least 99 percent confidence level using chi-squared analysis;

ii. the random number generator does not produce a measurable statistic with regard to producing patterns of occurrences. Each reel position is considered random if it meets at least the 99 percent confidence level with regard to the runs test or any similar pattern testing statistic;

iii. the random number generator produces numbers which are independently chosen.

24. Safety Requirements

a. Electrical and mechanical parts and design principles shall not subject a player to physical hazards.

b. Spilling a conductive liquid on the EGD shall not create a safety hazard or alter the integrity of the EGD's performance.

c. The power supply used in an EGD shall be designed to make minimum leakage of current in the event of an intentional or inadvertent disconnection of the alternate current power ground.

d. A surge protector shall be installed on each EGD. Surge protection can be internal or external to the power supply.

e. A battery backup device shall be installed and capable of maintaining accuracy of required electronic meter information after power is disconnected from the EGD. The device shall be kept within the locked or sealed logic board compartment and be capable of sustaining the stored information for 180 days.

f. Electronic discharges.

i. The following shall not subject the player to physical hazards:

(a). electrical parts;

(b). mechanical parts;

(c). design principles of the EGD and its component parts.

25. On and Off Switch. An on and off switch that controls the electrical current used to operate the EGD shall be located in an accessible place and within the interior of the EGD.

26. Power Supply Filter. EGD power supply filtering shall be sufficient to prevent disruption of the EGD by a repeated fluctuation of alternating current.

27. Error Conditions and Automatic Clearing

a. EGD's shall be capable of detecting and displaying the following conditions:

i. power reset;

ii. door open;

iii. inappropriate coin-in if the coin is not automatically returned to the player.

b. The conditions listed above shall be automatically cleared by the EGD upon initiation of a new play sequence, if possible.

28. Error Conditions; Clearing by Attendant

a. EGD's shall be capable of detecting and displaying the following error conditions which an attendant may clear:

i. coin-in jam;

ii. coin-out jam;

iii. hopper empty or timed-out;

iv. RAM error;

v. hopper runaway or extra coin paid out;

vi. program error;

vii. reverse token-in;

viii. reel spin error of any type, including a misindex condition for rotating reels. The specific reel number shall be identified in the error indicator;

ix. low RAM battery, for batteries external to the RAM itself, or low power source.

b. A description of EGD error codes and their meanings shall be affixed inside the EGD.

29. Coin Acceptors

a. At least one electronic coin acceptor shall be installed in each EGD.

b. All acceptors shall be approved by the Division/Board or the designated gaming laboratory.

c. Coin acceptors shall be designed to accept designated coins and to reject others.

d. The coin receiver on an EGD shall be designed to prevent the use of cheating methods, including, but not limited to:

i. slugging;

ii. stringing;

iii. spooling.

e. Coins which are accepted but not credited to the current game shall be returned to the player by activation of the hopper or credited toward the next play of the EGD control program and shall be capable of handling rapidly fed coins so that frequent occurrences of this type are prevented.

f. EGD's shall have suitable detectors for determining the direction and speed of the coin(s) travel in the receiver. If a coin traveling at improper speed or direction is detected, the EGD shall enter an error condition and display the error condition which shall require attendant intervention to clear.

30. Bill Validators

a. EGD's may contain a bill validator that will accept the following:

i. \$1 bills;

ii. \$5 bills;

iii. \$10 bills;

- iv. \$20 bills;
- v. \$50 bills;
- vi. \$100 bills.

b. The bill acceptors may be for single denomination or combination of denominations.

31. Automatic Light Alarm

a. A light shall be installed on the top of the EGD that automatically illuminates when the door to the EGD is opened or associated equipment that may affect the operation of the EGD is exposed, excluding all bartop EGD's.

32. Access to the Interior

a. The internal space of an EGD shall not be readily accessible when the door is closed.

b. The following shall be in a separate locked or sealed area within the EGD's:

- i. logic boards;
- ii. ROM;
- iii. RAM;
- iv. program storage media.

c. No access to the area described above is allowed without prior notification to the Licensee's surveillance room.

d. The Division shall be allowed immediate access to the locked or sealed area. A riverboat licensee shall maintain its copies of the keys to EGD's in accordance with the administrative rules and the licensee's system of internal controls. A licensee shall provide the Division a master key to the door of an approved EGD, if so requested. Unauthorized tampering or entrance into the logic area without prior notification in accordance with subsection c is grounds for enforcement action.

33. Tape Sealed Areas. An EGD's logic boards and/or any program storage media in a locked area within the EGD shall be sealed with the Division's security tape. The security tape shall be affixed by a Division Agent. The security tape may only be removed by, or with approval from, a Division Agent.

34. Hardware Switches

a. No hardware switches may be installed which alter the pay tables or payout percentages in the operation of an EGD.

b. Hardware switches may be installed to control the following:

- i. graphic routines;
- ii. speed of play;
- iii. sound;
- iv. other approved cosmetic play features.

35. Display of Rules of Play

a. The rules of play for EGD's shall be displayed on the face or screen of all EGD's. Rules of play shall be approved by the Division/Board prior to play.

b. The Division/Board may reject the rules if they are:

- i. incomplete;
- ii. confusing;
- iii. misleading; or
- iv. for any other reason stated by the Division/Board.

c. Rules of play shall be kept under glass or another transparent substance and shall not be altered without prior approval from the Division.

d. Stickers or other removable devices shall not be placed on the EGD face unless their placement is approved by the Division.

36. Manufacturer's Operating and Field Manuals and Procedures

a. A Licensee shall comply with written guidelines and procedures concerning installations, modifications, and/or upgrades of components and associated equipment established by the manufacturer of an EGD, component, on-line system, software, and/or associated equipment unless otherwise approved in writing by the Division/Board, or if the guideline(s) and/or procedure(s) conflict with any portion of this LAC 42:XIII.Chapter 42.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:721 (April 2000).

§4210. Electronic Gaming Device Tournaments

A. EGD tournaments may be conducted by Licensees, upon written approval by the Division.

B. All tournament play shall be on machines which have been tested and approved by the Division, and for which the tournament feature has been enabled.

C. All EGD's used in a single tournament shall utilize the same electronics and machine settings. Licensees shall utilize, and each device shall be equipped with an approved program which allows for tournament mode play to be enabled by a switch key (reset feature) and/or total replacement of the logic board, with an approved tournament board. Replacement of program storage media is not permissible for tournament play only. Form(s) as prescribed by the Division are required to be submitted for each device used in tournament play when the non- tournament logic board is removed. The Licensee shall submit, in writing, procedures regarding the storage and security of the both tournament and non-tournament boards when not in use.

D. EGD's enabled for tournament play shall not accept or pay out coins. The EGD's shall utilize credit points only.

E. Tournament credits shall have no cash value.

F. Tournament play shall not be credited to accounting or electronic (soft) meters of the EGD.

G. At the licensee's discretion, and in accordance with applicable laws and rules, the licensee may establish qualification or selection criteria to limit the eligibility of players in a tournament.

H. Rules of Tournament Play

1. The riverboat licensee shall submit rules of tournament play to the Division in accordance with LAC 42:XIII.2953 or within such time period as the Division may designate. The rules of play shall include, but are not limited to, the following:

a. the amount of points, credits, and playing time players will begin with;

b. the manner in which players will receive EGD assignments and how reassignments are to be handled;

c. how players are eliminated from the tournament and how the winner or winners are to be determined;

d. the number of EGD's each player will be allowed to play;

e. the amount of entry fee for participating in the tournament;

f. the number of prizes to be awarded;

- g. an exact description of each prize to be awarded;
- h. any additional house rules governing play of the tournament;
- i. any rules deemed necessary by the Division/Board to ensure compliance with this LAC 42:XIII.Chapter 42.

2. A licensee shall not permit any tournament to be played unless the rules of the tournament play have been approved, in writing, by the Division.

3. The rules of tournament play shall be provided to all tournament players and each member of the public who requests a copy of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:725 (April 2000).

§4211. Duplication of Program Storage Media

A. Personnel and Certification

1. Only the personnel defined in the Licensee's, Division approved, written internal controls shall be allowed to duplicate program storage media.

2. The Licensee shall provide to the Division certified documentation, from the manufacturer or copyright holder of the program storage media which is being duplicated, stating that the duplication of the program storage media is authorized.

3. The Licensee shall assume the responsibility of complying with all rules and regulations regarding copyright infringement. Program storage media protected by the manufacturer's federal copyright laws will not be duplicated for any reason or circumstance, unless approved otherwise by the manufacturer and/or the Division/Board.

4. Each duplicated program storage media shall be certified by the designated gaming laboratory's signature for that program storage media.

B. Required Documentation

1. Each Licensee shall maintain an program storage media Duplication Log which shall contain:

- a. the name of the program storage media manufacturer and the program storage media identification number of each program storage media to be erased;
- b. serial number of program storage media eraser and duplicator;
- c. printed name and signature of individual performing the erasing and duplication of the program storage media;
- d. identification number of the new program storage media;
- e. the number of program storage media duplicated;
- f. the date of the duplication;
- g. machine number (source and destination);
- h. reason for duplication;
- i. disposition of permanently removed program storage media.

2. The log shall be maintained on record for a period of five years.

3. Corporate internal auditors shall verify compliance with program storage media duplication procedures at least twice annually.

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached white adhesive label containing the following:

- a. manufacturer name and serial number of the new program storage media;
- b. designated gaming laboratory signature verification number;
- c. date of duplication;
- d. initials of personnel performing duplication.

D. Storage of Program Storage Media and Duplicator/Eraser

1. Program storage media duplication equipment shall be stored with the security department or other department approved by the Division.

2. Equipment shall be released only to the personnel defined in the Licensee's, Division approved, written internal controls.

3. At no time shall the personnel defined in the Licensee's, Division approved, written internal controls leave unattended the program storage media duplication equipment.

4. Program storage media duplication equipment shall only be released from the security department, or other department approved by the Division, for a period not to exceed 4 hours within a twenty-four hour period.

5. An Equipment Control Log shall be maintained by the Licensee and shall include the following:

- a. date, time, name of employee taking possession of, or returning equipment, and name of the individual assigned to the Division approved storage department taking possession of, or releasing equipment;

6. All program storage media shall be kept in a secure area and the Licensee shall maintain an inventory log of all program storage media.

E. Internal Controls

1. The Licensee shall adopt, and have approved by the Division, internal controls which are in compliance with this section prior to duplicating program storage media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:726 (April 2000).

§4212. Marking, Registration, and Distribution of Gaming Devices

A. No one, including a licensee, Permittee, manufacturer or supplier may ship or otherwise transfer a gaming device into this state, out of this state, or within this state unless:

1. a serial number (which shall be the same number as given the device pursuant to the provisions of 15 U.S.C. 1173 of the Gaming Device Act of 1962) permanently stamped or engraved in lettering no smaller than five (5) millimeters on the metal frame or other permanent component of the EGD and on a removable metal plate attached to the cabinet of the EGD; and

2. a manufacturer, supplier, or licensee shall file forms as prescribed by the Division/Board before receiving authorization to ship a device for use in the Louisiana Riverboat Gaming Industry;

3. each manufacturer or supplier shall keep a written list of the date of each distribution, the serial numbers of the devices, the Division approval number, and the name, state of residence, addresses and telephone numbers of the person to whom the gaming devices have been distributed and shall provide such list to the Division immediately upon request;

4. a registration fee of \$100.00 per device shall be paid by company check, money order, or certified check made payable to State of Louisiana, Department of Public Safety. This fee is not required on devices which are currently registered with the Division/Board and display a valid registration certificate. Upon receipt of the appropriate shipping forms and fees, the Division/Board shall issue a written authorization to ship for approved devices. This fee is applicable only to gaming devices destined for use in Louisiana by licensed riverboat entities or suppliers;

5. prior to actual receipt of the shipment, the Licensee shall notify the Division of the arrival. The Division shall require that the shipper's manifest or other shipping documents are verified against the Letter of Authorization for that shipment. The shipment shall also have been sealed at the point of origin, or the last point of shipment. The seal number shall be recorded on the shipping documents and attached to the Licensee's copy of the Letter of Authorization;

6. the storage of the shipment, once properly received, shall be in a containment area that is secure from any other equipment. There shall be a dual key locking system for the containment area. The containment area shall have been inspected and approved in writing by the Division/Board prior to any EGD storage. All electronic control boards and/or program storage media shall be securely stored in a separate containment area from the EGD's. The containment area shall have been inspected and approved in writing by the Division/Board prior to any electronic control board and/or program storage media storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:726 (April 2000).

§4213. Approval to Sell or Disposal of Gaming Devices

No gaming device registered by the Division/Board shall be destroyed, scrapped, or otherwise disassembled without prior written approval of the Division/Board. A licensee shall not sell or deliver a gaming device to a person other than its affiliated companies or a permitted manufacturer or supplier without prior written approval of the Division/Board. Applications for approval to sell or dispose of a registered gaming device shall be made, processed, and determined in such manner and using such forms as the Division/Board may prescribe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:727 (April 2000).

§4214. Maintenance of Electronic Gaming Devices

A licensee shall not alter the operation of an approved EGD except as provide otherwise in the Division/Board's rules and shall maintain the EGD's as required in LAC 42:XIII.Chapter 42. Each licensee shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the Division upon request. The written list of repairs for all EGD's shall be kept in a maintenance log book in the slot tech office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:727 (April 2000).

§4215. Analysis of Questioned Electronic Gaming Devices

A. If the operation of any EGD is questioned by any licensee, patron or an agent of the Division/Board and the question cannot be resolved, the questioned device shall be examined in the presence of an agent of the Division and a representative of the licensee. If the malfunction can not be cleared by other means to the satisfaction of the Division/Board, the patron or the licensee, the EGD shall be disabled and be subjected to a program storage media memory test to verify "signature" comparison by the Division. Upon successful verification of the signature of the program storage media ,and all malfunctions resolved, the EGD in question may be enabled for patron play.

B. In the event that the malfunction can not be determined and corrected by this testing, the EGD may be removed from service and secured in a remote, locked compartment. The EGD may then be transported to the designated gaming laboratory selected by the Division/Board where the device shall be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis shall be borne by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:727 (April 2000).

§4216. Summary Suspension of Approval of Electronic Gaming Devices

The Division/Board may issue an order suspending approval of an EGD if it is determined that the EGD does not operate in the manner certified by the designated gaming laboratory pursuant to this LAC42:XIII.Chapter 42. The Division/Board after issuing an order may thereafter seal or seize all models of that EGD not in compliance with the LAC 42:XIII.Chapter 42.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:727 (April 2000).

§4217. Seizure and Removal of Electronic Gaming Equipment and Devices

A. EGD's and associated equipment may be summarily seized by the Division/Board. Whenever the Division/Board seizes and removes EGD's and/or associated equipment:

1. an inventory of the equipment or EGD's seized will be made by the Division/Board, identifying all such equipment or EGD's as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or EGD's will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the licensee or Permittee will be notified in writing by the Division/Board at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment

or EGD is to be impounded. A copy of the inventory of the seized equipment or EGD will be provided to the licensee or Permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:727 (April 2000).

§4218. Seized Equipment and EGD's as Evidence

A. All gaming equipment and EGD's seized by the Division/Board shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the Division/Board upon their seizure and may be disposed of by the Division/Board, which disposition shall be documented as to date and manner of disposal;

2. the Division/Board shall notify by certified mail each known claimant of a cheating device that the claimant has 10 days from the date of the notice within which to file a written claim with the Division/Board to contest the characterization of the property as a cheating device;

3. failure of a claimant to timely file a claim as provided in subsection A, paragraph 2 above will result in the Division/Board's pursuit of the destruction of property;

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within 15 days after final determination;

5. items seized for inspection or examination may be returned by the Division/Board without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:728 (April 2000).

§4219. Approval of Associated Equipment; Applications and Procedures

A. A manufacturer or supplier of associated equipment and/or non-gaming products shall not distribute associated equipment and/or non-gaming products unless such manufacturer and/or supplier has been approved by the Division/Board. Applications for approval of associated equipment and/or non-gaming products shall be made and processed in such manner and using such forms as the Division/Board may prescribe. Each application shall include, in addition to such other items or information as the Division/Board may require:

1. the name, permanent address, social security number or federal tax identification number of the manufacturer or supplier of associated equipment and non-gaming products unless the manufacturer or supplier is currently permitted by the Division/Board. If the manufacturer or supplier of associated equipment and non-gaming products is a corporation, the names, permanent addresses, social security numbers, and driver's license numbers of the directors and officers shall be included. If the manufacturer or supplier of associated equipment and non-gaming products is a partnership, the names, permanent addresses, social security numbers, driver's license numbers, and partnership interest of the partners shall be included. If

social security numbers or driver's license numbers are not available, the birth date of the partners may be substituted;

2. a complete, comprehensive and technically accurate description and explanation in both technical and non-technical language of the equipment and its intended usage, signed under penalty of perjury;

3. detailed operating procedures; and

4. details of all tests performed and the standards under which such tests were performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:728 (April 2000).

Chapter 43. Specifications for Gaming Devices and Equipment

§§4327. - 4357. Repealed.

Hillary J. Crain
Chairman

0004#031

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Pari-Mutuel Live Racing Facility Slot Machine Gaming
(LAC 42:VII.Chapters 17, 21 - 29 and 42)

The Louisiana Gaming Control Board hereby adopts LAC 42.VII.1701 et seq., not including R.S. 2325, in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

**Part VII. Pari-Mutuel Live Racing Facility
Slot Machine Gaming**

Chapter 17. General Provisions

§1701. Definitions

As used in the regulations, the following terms have the meanings described below.

Act the Louisiana Pari-Mutuel Racing Facility Economic Redevelopment and Gaming Control Act, La. R.S. 27:351 et seq. and as amended, R.S. 27:1 et seq. and as amended.

Administrative Approval the authority conferred upon the board or the division by the board, any regulation, or by a condition imposed on a license, to grant or deny, in their individual discretion, a request for approval of a proposed action or transaction.

Agent any commissioned Louisiana state police trooper or designated employee of the Louisiana State Police, Gaming Enforcement Section.

Applicant any person who has submitted an application to the board seeking a license, or approval, or the renewal thereof.

Applicant Records those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished to or obtained by the board or division from any source incidental to an investigation for

licensing, findings of suitability, registration, the continuing obligation to maintain suitability, or other affirmative approval.

Application the forms, schedules and other documents prescribed by the board and division upon which an applicant seeks a license, registration, or other finding of suitability, or renewal thereof. Application also includes information, disclosure statements, personal and personal financial histories, financial statements and all documents incorporated in, attached to, or submitted with the application form.

Architectural Plans and Specifications, Architectural Plans, and Plans or Specifications all of the plans, drawings, and specifications for the construction, furnishing, and equipping of the eligible facility, including, but not limited to, detailed specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the facility, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers. *Architectural Plans and Specifications* does not include FF&E, as defined in this Chapter.

Associated Equipment any gaming equipment which does not affect the outcome of the game, except as otherwise provided in these regulations.

Background Investigation all efforts, whether prior to or subsequent to the filing of an application, designed to discover information about an applicant, licensee, registrant, or other person required to be found suitable and includes without time limitations, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process.

Business Year the annual period used by a licensee for internal accounting purposes as defined and approved by the division.

Candidate any person whose name is included in a petition to place such person on the exclusion list pursuant to these regulations.

Career or Professional Offender any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this state.

Certified Electronic Technician qualified service personnel or gaming employee trained by a manufacturer, distributor, supplier, or other qualified entity, or through training programs approved by the division, who are capable of performing any repairs, parts replacements, maintenance, and other matters relating to servicing of slot machines.

Chairman the chairman of the Louisiana Gaming Control Board.

Cheat any person whose act or acts in any jurisdiction would constitute cheating.

Coin a metal representative of value, redeemable for cash, and issued or sold by a licensee for use in gaming devices at the eligible facility, commonly referred to as "token". Coin also means a metal representative of value manufactured for, or by, the United States Government.

Confidential Record any paper, document or other record or data reduced to a record which is not open to public inspection.

Confidential Source or Informant a provider of information which is not a matter of general public knowledge or of public record, as well as an information provider, the revelation of whose identity would tend to compromise the flow of information from that particular provider or his class of providers. Examples of confidential sources include: governmental agencies which provide tax records or related information; law enforcement or criminal justice agencies, including cooperative or federally-funded data bases, which provide criminal history and related data under an information sharing or providing agreement or arrangement; private persons or entities which provide information subject to the condition that the information or their identities be kept confidential; informants, whether volunteering information or responding to investigatory measures; and any other provider or originator of information which might be deemed to be subject to a recognized privacy or confidentiality interest or a privilege against disclosure (unless the privilege has been waived), or the public disclosure of which might tend to endanger or compromise the provider of information, or impede the future furnishing of similar information.

Day as used in these regulations shall mean a calendar day.

Designated Gaming Area those contiguous portions of a licensed eligible facility in which gaming activities may be conducted, which shall be determined by measuring the area, in square feet, inside the interior walls of the licensed eligible facility, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage areas, and emergency evacuation routes.

Designated Representative a person designated by the licensee to oversee and assume responsibility for the operation of the licensee's gaming business.

Distributor any person that sells, leases, markets, offers, or otherwise distributes, directly or indirectly, any slot machine, gaming device or equipment for use or play in an eligible facility or sells, leases, or otherwise distributes any gaming device or equipment.

Division Surveillance Room a room or rooms at each facility for the exclusive use of division agents.

Drop the total amount of money and tokens removed from the drop box and the bill validator acceptor drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

Duplication Fees a charge for duplicating documents for release to the requesting person.

Economic Interest or Interest any interest in a licensee whereby a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit. Economic interest in a licensee includes voting shares of stock or otherwise exercising control of the day to day operations of the licensee through a management agreement or similar contract. Economic interest does not include a debt unless upon review of the instrument, contract, or other evidence of indebtedness, the board determines a finding of suitability is required based upon the economic relationship with the licensee.

Electronic Coin-In Meter (Soft Meter) the electronic meter housed within the gaming device that cumulatively

counts the number of coins wagered by actual coins inserted or credits won, or both.

Electronic Coin-Out Meter (Soft Meter) the electronic meter housed within the gaming device which cumulatively counts the number of coins paid by the hopper or credits won, or both.

Electronic Coins-Dropped Meter (Soft Meter) the electronic meter housed within the gaming device which cumulatively counts the number of coins diverted into the drop bucket and credit value of all bills inserted into the bill validator for play.

Electronic Fund Transfer any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Electronic Games Played Meter (Soft Meter/Handle Pulls) the electronic meter housed within the gaming device that cumulatively counts the number of games played.

Electronic Gaming Device has the same meaning as "slot machine".

Electronic Jackpots-Paid Meter (Soft Meter/Hand Paid) the electronic meter housed within the gaming device that reflects the cumulative amounts paid by an attendant for the progressive and nonprogressive jackpots.

Electro-Mechanical Meters (Hard/Mechanica) the mechanical meters housed within the gaming device which register the coin in, coin out, coin dropped and games played. For the purposes of these regulations, the electro-mechanical meters shall not be used as required information by the division/board.

Emergency Evacuation Route those areas within the designated gaming area of a licensed eligible facility which are clearly defined and identified by the licensee as necessary and approved by the State Fire Marshall or other federal, state, or local regulatory agency for the evacuation of patrons and employees from the facility, and from which and in which no gaming activity may be conducted.

Employee Permit or Gaming Employee Permit the permit of a person employed in the operation or supervision of a gaming activity at a licensed eligible facility and includes slot machine technicians and mechanics, designated gaming area security employees, count room personnel, cage personnel, slot machine booth personnel, slot machine change personnel, credit and collection personnel, casino surveillance personnel, and supervisory employees empowered to make discretionary decisions that regulate gaming activities, including shift supervisors, credit executives, gaming cashier supervisors, gaming managers and assistant managers, and any individual, other than nongaming equipment maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries, whose employment duties require or authorize access to designated gaming areas.

Enforcement Action any action instituted by the board or division, to consider sanctions authorized by the act including the suspension, revocation or conditioning of a license or permit, or the assessment of a fine upon the conclusion of an investigation into a violation of the act or of the rules adopted pursuant to the act, a violation of a

condition, restriction or limitation placed on a license or permit, a violation of the licensee's internal controls as approved by the division.

Excluded List a list or lists which contain identities of persons who are excluded from any licensed eligible facility pursuant to these rules.

Excluded Person any person who has been placed upon the list by preliminary or final order of the division, and who is required to be excluded or ejected from a gaming establishment pursuant to these rules.

FF&E (Furniture, Fixtures and Equipment) any part of a eligible facility that may be installed or put into use as purchased from a manufacturer, supplier, or nongaming supplier, including but not limited to television cameras, television monitors, computer systems, computer programs, computers, computer printers, ready made furniture and fixtures, appliances, accessories, and all other similar kinds of equipment and furnishings.

Financial Statements those statements and the information contained therein which relate to the assets, expenses, owner's equity, finances, earnings, or revenue of an applicant, licensee, registered company, or person who provides such records as part of an application or division investigation.

Fiscal Year a period beginning July 1 and ending June 30 the following year.

Gaming Activities or Gaming Operations the use, operation, offering, or conducting of slot machines at an eligible facility in accordance with the provisions of the act.

Gaming Day a twenty-four hour period of time which represents the beginning and ending times of gaming activities for the purpose of accounting and determination of Net slot machine proceeds.

Gaming Device or Gaming Equipment a slot machine used directly or indirectly in connection with gaming or any game, which affects the result of a wager by determining wins or losses.

Game Outcome the final result of the wager.

Gaming Operator or Licensee any person holding or applying for a gaming license to participate in gaming activities at a licensed facility.

Inspection periodic surveillance and observation by the division of operations conducted by a licensee which surveillance and observation may or may not be made known to the licensee.

Internal Control System internal procedures and administration and accounting controls designed by the licensee and approved by the division and/or the board for the purpose of exercising control over the gaming operations and for complete and accurate calculation and reporting of financial data.

Key Gaming Employee

a. any individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate gaming activities including, but not limited to, the general manager and assistant general manager of the licensed eligible facility, director of slot operations, director of cage and or credit operations, director of surveillance, director of management information systems, director of security, accounting controller, and any employee who supervises the operations of these departments or to whom these individual

department directors report, and such other positions which the board or division shall later determine, based on detailed analysis of job descriptions as provided in the internal controls of the licensee as approved by the division. All other gaming employees, unless determined otherwise by the board, shall be classified as nonkey gaming employees.

b. In the case of vacation, leave of absence, illness, resignation, termination, or other planned or unplanned extended absence of a key employee, a nonkey assistant director or manager of the above named individual departments may serve not more than 90 calendar days during one calendar year as head of that department, after written request to and written approval of the supervisor of the division or the chairman of the board.

Leakage Current an electrical current that flows when a conductive path is provided between exposed portions of a gaming device and the environmental electrical ground when the gaming device is isolated from the normal AC power ground.

License Type A the authorization applied for by or issued to the owner of an eligible facility by the board to conduct slot machine gaming at an eligible facility issued pursuant to the act.

License Type B the authorization issued by the board to a slot machine owner to participate in slot machine gaming operations at eligible facilities.

License Type C the authorization issued by the board to a distributor to participate in slot machine gaming operations at eligible facilities..

License Type D the authorization issued by the board to a manufacturer to participate in slot machine gaming operations at eligible facilities.

License Type E the authorization issued to a service technician (other than an employee of the eligible facility) to participate in slot machine gaming operations at eligible facilities.

List or Exclusion List a list of names of persons who are required to be excluded or ejected from designated gaming facilities.

Maintenance the routine servicing of any slot machine, excluding the logic board, software, and electronic (soft) and mechanical (hard) meters, and other servicing which provides for the efficient operation of the machine.

Manufacturer's Operating and Field Manual any written literature that provides procedures, instructions, guidelines and/or information written by, or on behalf of, the manufacturer of gaming devices, components, on-line slot systems, software, and/or associated equipment.

Modification any movement or relocation of a gaming device wherein continuous communication between the slot machine and the on-line slot monitoring system is interrupted; or any change, conversion, or reconfiguration to a gaming device and/or component housed within, or attached to a device, wherein the program, access number (house number), payout percentage, or denomination has been altered; or, any change to the device which requires the removal of a sealed EPROM including temporary removal except for testing purposes by the division and/or board; or any conversion, software change, replacement, or any other alteration or modification to an on-line slot monitoring system that requires interruption of communication between a gaming device and the on-line slot monitoring system.

Nongaming Supplier any person who sells, leases or otherwise distributes, directly or indirectly, goods and/or services other than gaming devices and gaming equipment to a Type A licensee.

Nongaming Supplier Permit the required permit for a nongaming supplier who unless otherwise exempt, sells, leases or otherwise distributes, directly or indirectly, goods and/or services to a licensee.

Nonvolatile Memory a type of memory in which data stored in the memory is not lost when the power is turned off.

Occupational Manner or Context the systematic planning, administration, management, or execution of an activity for financial gain.

Operation the operation of a licensed eligible facility or the operation of a manufacturer, distributor, or supplier pursuant to the issuance of a license.

Patron an individual who is at least twenty-one years of age and who has lawfully placed a wager in a slot machine at a licensed eligible facility.

Payout winnings earned on a wager.

Permit an authorization therefor issued pursuant to the act other than a license including but not limited to an employee permit.

Permitted any person, or entity who is issued or applying for a permit.

Premises land, together with all buildings, improvements, and personal property located thereon.

RAM or Random Access Memory the electronic component used for computer work space and storage of volatile information in a gaming device.

RAM Clear Chip an erasable programmable read only memory chip which contains a program specifically designed to clear volatile and nonvolatile memory sections of a logic board for a gaming device.

Random Number Generator hardware, software, or combination of hardware and software devices for generating number values that exhibit characteristics of randomness.

Randomness the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

ROM or Read Only Memory the electronic component used for storage of nonvolatile information in a gaming device, including programmable ROM and erasable programmable ROM.

Records accounts, correspondence, memorandums, audio tapes, videotapes, computer tapes, computer disks, electronic media, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

Regulations the gaming regulations promulgated pursuant to the act.

Renewal Applicant a person who has filed any part of an application for renewal of any license or permit.

Renewal Application all of the information, documents, forms, and materials required by the act and regulations to be filed with the board or division to renew any license or permit in accordance with the act.

Runs Test a mathematical statistic that determines the existence of recurring patterns within a set of data.

Sensitive Keys all keys, including originals and duplicates, used in the process of accessing cash or tokens. Sensitive keys also include, but are not limited to drop box release and content keys, gaming device cabinet keys except slot machine access keys, and all keys used to access secure areas. Sensitive keys also include any keys so designated in the licensee's internal controls as approved by the division and/or the board.

Slot Machine Owner any person who owns slot machines used in gaming in accordance with the provisions of the act and these regulations.

Standard Chi-Squared Analysis the sum of the squares of the difference between the expected result and the observed result.

Statements on Auditing Standards the auditing standards and procedures published by the American Institute of Certified Public Accountants.

Supplier and/or Distributor of Gaming Devices and Equipment any person that sells, leases, markets, offers, or otherwise distributes, directly or indirectly, any gaming devices or equipment for use or play in this state or sells, leases, or otherwise distributes any gaming devices or equipment.

Tilt Condition a programmed error state for an electronic gaming device which occurs when the gaming device detects an internal error, malfunction, or attempted cheating. The gaming device ceases processing further input, output, or display information other than that indicating the tilt condition itself.

Token a metal representative of value, redeemable for cash, and issued and sold by a licensee for use in electronic gaming devices and slot machines at the eligible facility.

Wager a sum of money or thing of value risked on a game.

Win the total of all cash and property (including checks received by a licensee, whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out in winnings to patrons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:728 (April 2000).

§1703. Ownership of Licenses and Permits

A. Licenses and permits issued by the board as provided in the act and rules and regulations promulgated pursuant to the act are and shall remain the property of the board at all times.

B. All licenses and permits shall be surrendered to the board upon their expiration or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:732 (April 2000).

§1705. Transfers of Licenses or Permits

Licenses and permits are not transferable or assignable. If the status of the licensee or permittee should change such that the person no longer needs or is entitled to the license or permit, then the license or permit shall be canceled and any tangible item which evinces such a license or permit shall be surrendered to the board within five days of the change of

status. Any license or permit surrendered pursuant to the Section shall be marked canceled or destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:732 (April 2000).

Chapter 19. Administrative Procedures and Authority §1907. Issuance and Construction of Regulations and Administrative Matters

A. Board Rules and Regulations; Promulgation, Approval

1. Construction of Regulations; Severability. Nothing contained in these regulations shall be so construed as to conflict with any provision of the act or any other applicable statute. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

2. Definitions, Captions, Pronouns, and Gender. The terms defined in the act have the same meaning in the regulations as they have in the act, unless the context otherwise requires. Captions appearing at the beginning of regulations are descriptive only, are for convenient reference to the regulations and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice-versa, in any place or places in the regulations where the context requires such substitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:732 (April 2000).

Chapter 21. Licenses and Permits

§2101. General Authority of the Board and Division

The board and the division shall have the authority to call forth any person who, in the board's or division's opinion, has the ability to exercise influence over a licensee or permittee, or the pari-mutuel live racing industry, and such person shall be subject to all suitability requirements. In the event a person is required by the board to obtain a license or permit, and such license or permit is not applied for or denied, then the licensee and/or permittee shall cease association with such person(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:732 (April 2000).

§2103. Applications in General

Any license or permit issued by the board or division is deemed to be a revocable privilege, and no person holding such a license or permit is deemed to have acquired any vested rights therein. An applicant for a license or permit authorized by the act or these regulations, is seeking the granting of a privilege, and the burden of proving qualification to receive the license or permit is at all times on the applicant. An applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an

application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the board or division. The filing of an application under the act or these regulations constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with pari-mutuel live racing or other gaming activity authorized by law and by filing an application, the applicant specifically consents to the making of such a decision by the board and the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:732 (April 2000).

§2105. Investigations

The board or division shall investigate all applications for licenses or permits or other matters requiring board approval. The board or division may investigate, without limitation, the background of the applicant, the suitability of the applicant, the suitability of the applicant's finances, the applicant's business probity, the suitability of the proposed premises for gaming, the suitability of a person with an economic interest in the applicant of 5 percent or more, the suitability of any person who in the opinion of the board or division has the ability to exercise influence over the activities of a licensee and the proposed establishment's compliance with all applicable federal, state, and local laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:733 (April 2000).

§2107. Applicants in General; Restrictions

A. The securing of a license or permit required under the act is a prerequisite for conducting, operating, or performing any activity regulated by the act. Each applicant must file a complete application.

1. Except as provided herein, if the applicant is a general partnership or joint venture, each individual partner and joint venturer must file a complete application.

2. If the license applicant is a corporation, each officer and director of the corporation must file a Part B personal history and financial form. Any shareholder with five percent or more of the corporation must file a completed Part B form, and if such shareholder is other than a natural person, then each officer, director, or person with an economic interest equal to or greater than five percent in the license applicant must file a Part B form.

3. If the license applicant is a limited partnership, the general partner and each limited partner having 5 percent or more interest must file a complete application. If the partner or limited partner is other than a natural person, then each officer, director, or person with an economic interest equal to or greater than 5 percent in the license applicant must file a Part B form.

4. If the license applicant is a limited liability company, pursuant to R.S. 12:1301 et seq., each officer or manager of the company must file a "Part B" form. Any member of 5 percent or more of the company must file a Part B form, and if such member is other than a natural

person, then each officer, director or person with an economic interest equal to or greater than 5 percent in the license applicant must file a Part B form.

5. If the license applicant is a registered limited liability partnership, pursuant to R.S. 9:3431 et seq., the managing partner and each partner having 5 percent or more interest must file a Part B form. If the partner is other than a natural person, then each officer, director or person with an economic interest equal to or greater than five percent in the license applicant must file a Part B form.

6. An application may be required to be filed by any person who is shown by a preponderance of evidence to:

a. have influence over the operation of gaming at an eligible facility;

b. receive any share or portion of the gaming money or property won by the operator or owner of an eligible facility; or

c. receive compensation or remuneration in excess of \$50,000 per annum (as an employee of a licensee or in exchange for any service or thing) provided to the licensee; or

d. be a lessor or provider of goods or services; or

e. have any contractual agreement with a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:733 (April 2000).

§2108. Nongaming Suppliers

A. Except as provided in Subsections E and F of this Section, any supplier shall obtain a nongaming supplier permit from the division, upon providing goods and/or services to a Type A licensee in an amount in excess of \$50,000 during the preceding fiscal year period.

B. Any nongaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee may be requested to apply to the division for a finding of suitability.

C. Unless otherwise notified by the division in writing, a licensee shall conduct business with a nongaming supplier only if:

1. such supplier possesses a valid nongaming permit which has been placed in an approved status by the division; or

2. such supplier has been issued a waiver from the division regarding the necessity of obtaining a permit, pursuant to the provisions of Subsections E or F of this Section, or

3. during the immediate preceding fiscal year period, such supplier has received \$50,000 or less from the licensee as payment for providing nongaming services or goods to the licensee.

D. It shall be the responsibility of each Type A licensee to ensure that it has not paid more than \$50,000 to any nongaming supplier during the preceding fiscal year period as payment for providing nongaming services or goods, unless such nongaming supplier holds a valid nongaming suppliers permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to Subsections E or F of this Section.

E. The following nongaming suppliers shall be deemed to have been waived by the board and division from the

necessity of obtaining a nongaming suppliers permit pursuant to this Section:

1. nonprofit charitable organizations, and educational institutions which receive funds from the licensee, including educational institutions that receive tuition reimbursement on behalf of employees of a licensee:

a. nonprofit charitable organization shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c), (3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code;

2. entities which provide one or more of the following services to a licensee and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; and
- e. local telephone services.

3. regulated insurance companies providing insurance to a licensee and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee for the cost of enrollment, activities, and membership;

6. all state, federal, and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, television stations and radio stations which contract with licensees to provide advertising services; and

10. providers of professional services, including but not limited to accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities.

F. Any nongaming supplier required to obtain a nongaming suppliers permit, other than those listed in Subsection E in this Section may request a waiver of the necessity of obtaining a nongaming suppliers permit. The division may grant such a request upon showing of good cause by the nongaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the nongaming supplier.

G. Junket representatives shall be subject to the provisions of this Section in the same manner as other nongaming suppliers.

H. Each Type A licensee shall submit to the division, on a quarterly basis, a report containing a list of all nongaming suppliers which have received \$5,000 or more from the licensee during the previous quarter, or \$50,000 or more during the preceding fiscal year period as payment for providing nongaming services or goods to the licensee. This report shall include the name and address of the nongaming supplier, a description of the type of goods or services provided, the nongaming supplier's nongaming permit number, if applicable, federal tax identification number, and

the total amount of all payments made by the licensee, or any person acting on behalf of the licensee, to each nongaming supplier during the previous four quarters. For each of the nongaming suppliers listed in this quarterly report which is a provider of professional services as defined in Subsection E. 10 of this Section, each licensee shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the licensee or any person acting on behalf of the licensee during the previous quarter. This report shall be received by the board and the division not later than the last day of the month following the quarter being reported.

I. The division shall determine whether nongaming suppliers providing goods and/or services to licensees are legitimate ongoing businesses and are not utilized for the primary purpose of compliance with voluntary procurement goals. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by licensees;

2. total customer base;

3. dollar volume of all sales compared to sales to licensees;

4. existence and nature of warehouse and storage facilities;

5. existence and number of commercial vehicles owned or leased; and/or

6. existence and nature of business offices, equipment and facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:733 (April 2000).

§2109. Suitability Determination

A Type A gaming license shall be in the name of the owner of the eligible facility. The licensee, gaming operator, owner of facilities, officer or director, or any person having a five percent or more interest in such entity or any person who in the opinion of the board has the ability to exercise significant influence over the activities of a licensee shall be required to submit to an investigation to determine suitability. All costs associated with conducting an investigation for suitability of the licensee, operator of facilities, officer or director, or any person having any economic interest in such entity, shall be borne by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:734 (April 2000).

§2110. Plans and Specifications

A Type A licensee shall submit all plans and specifications of the eligible facility to the board and the division at the time of application. The licensee shall have an ongoing duty to inform the division of changes in the facility plans, specifying layout and design as they become available. The licensee shall have an ongoing duty to update the board and the division of changes in the facility plans, specifying the

layout and design as they become available. Such changes are subject to prior approval by the board as the case may be.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:734 (April 2000).

§2111. License or Permit Disqualification Criteria

The board shall not award a license or permit to any person who fails to prove by clear and convincing evidence that he is qualified in accordance with the provisions of the act or these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:735 (April 2000).

§2113. License and Permits; Suitability

A. No person shall be eligible to receive a license or permit issued pursuant to the provisions of the act or these regulations unless the board finds that:

1. the applicant is a person of good character, honesty, and integrity; and has never been convicted of a felony offense;

2. the applicant is a person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation and control of slot machine gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of slot machine gaming or the conducting of business and financial arrangements incidental thereto;

3. the applicant is capable of conducting the activity for which a license is sought, which means that the applicant can demonstrate the capability, through either training, education, business experience, or a combination of them, to conduct such activities.

4. particularly as to the owner of the eligible facility, the applicant can demonstrate that the proposed financing of slot machine gaming at the eligible facility is adequate for the nature of the proposed operation and from a source suitable and acceptable to the board.

5. the applicant, if a natural person, is a Louisiana domiciliary and if not, is a Louisiana corporation, partnership, limited liability company, or a registered limited liability partnership licensed to conduct business in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:735 (April 2000).

§2114. Tax Clearances Required of an Applicant for a License

A. The applicant, its officers, directors, any person with an economic interest of 5 percent or more in an applicant and any person who in the opinion of the board has the ability to exercise significant influence over the activities of a licensee shall receive tax clearances from the appropriate federal and state agencies prior to the granting of a license.

B. The applicant, its officers, directors and any person with an economic interest of 5 percent or more and any person who in the opinion of the board has the ability to

exercise significant influence over the activities of a licensee shall remain current in filings of tax returns and the payments required pursuant to such returns.

C. The violation of this Section is grounds to condition, suspend, or revoke a permit or license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:735 (April 2000).

§2115. Tax Clearances

A. An applicant for a license or permit shall be current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and items for which the department of revenue and taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

B. It shall be the sole responsibility of a licensee or permittee to remain current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

1. Any failure to timely file all applicable tax returns or any tax deficiency shall be corrected within 30 days of the notice to the division of such failure to file or tax deficiency.

2. At the expiration of the 30, if the failure to file or the tax deficiency is not corrected to the appropriate taxing authority's satisfaction, administrative action shall be initiated by the division against the licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:735 (April 2000).

§2121. Form of Application for a License

A. An application for a license shall be filed by way of forms prescribed by and obtained from the board or division. Such forms may include, but are not limited to:

1. a history record regarding the background of the applicant;

2. a financial statement;

3. a statement disclosing the nature, source, and amount of any financing, the proposed uses of all available funds, the amount of funds available after opening for the actual operation of the eligible facility, and economic projections for the first three years of operation of the eligible facility;

4. an affidavit of full disclosure, signed by the applicant;

5. an authorization to release information to the board and division, signed by the applicant;

6. a standard bank confirmation form, signed by the applicant;

7. a release of all claims, signed by the applicant;

8. in addition, the board or division may require an applicant to provide such other information and details as it needs to discharge its duties properly. Failure to supply any information within the prescribed time periods, after

receiving the board's or division's request, may constitute grounds for delaying consideration of the application and/or constitutes grounds for denial of the application; and

I. security statement explaining the type of security procedures, practices, and personnel to be utilized by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:735 (April 2000).

§2123. Additional Type A Application Information Required

A. Every application for a Type A license shall contain the following additional information including but not limited to:

1. two copies of detailed plans of design of the eligible facility, including a layout of the designated gaming area and areas wherein gaming operations will be conducted, stating the projected use of each area;

2. the total estimated cost of construction of the eligible facility proposed by this application, distinguishing between known costs and projections, and shall separately identify:

- a. facility design expense;
- b. land acquisition or site lease costs;
- c. site preparation costs;
- d. construction cost or renovation cost;
- e. equipment acquisition cost;
- f. cost of interim financing;
- g. organization, administrative and legal expenses;

and

h. projected permanent financing costs.

3. the construction schedule proposed for completion of the eligible facility; including therein a projected date of completion, and indication of whether the construction contract includes a performance bond;

4. explanation and identification of the source or sources of funds for the construction of the eligible facility;

5. description of the casino size and approximate configuration of slot machines, to include the type of slot machine and the proposed distributors and manufacturers of this equipment;

6. a detailed plan of surveillance equipment to be installed;

7. days and periods of time that the gaming area will be in operation; and

8. the proposed management of the facility, management personnel by function and organizational chart by position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:736 (April 2000).

§2125. Access to Applicants' Premises and Records

Each applicant shall upon request immediately make available for inspection by the division or agents of the division, all papers, books and records used, or to be used, in the licensed or permitted operation. The division, or any agent of the division, shall be given immediate access to any portion of the premises of any eligible facility or premises of a manufacturer or supplier for the purpose of inspecting or

examining any records or documents required to be kept under the provisions of the act and these regulations and any gaming device or equipment or the conduct of any gaming activity. Access to the areas and records that may be inspected or examined by the division, or division agents, shall be granted to any such individual who displays division credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:736 (April 2000).

§2127. Information Constituting Grounds for Delay or Denial of Application; Amendments

A. It shall be grounds for denial of the application or enforcement action for any person to make any untrue statement of material fact in any application, or in any statement or report filed with the board or division, or willfully to omit in any such application, statement or report, any material fact which is required to be stated therein, or which is necessary to make the facts stated not misleading.

B. All information included in an application shall be true and complete to the best of the applicant's knowledge and in the opinion of the division as of the date submitted. An applicant shall immediately supply by amendment any new information based on facts occurring after the original application.

C. An application may be amended upon approval of the chairman or division supervisor. An amendment to an application may have the effect of establishing the date of such amendment as the filing date of the application with respect to the time requirements for action on the application. Request for amendment to an application shall be in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:736 (April 2000).

§2129. Other Considerations for Licensing

A. Sections 2129-2137 set forth criteria which the board may consider when deciding whether to issue a Type A license. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of an application for a license. The following criteria are not listed in order of priority.

1. Proper Financing. The board may consider whether the proposed eligible facility is properly financed.

2. Adequate Security and Surveillance. The board may consider whether the proposed eligible facility is planned in a manner which provides adequate security and surveillance for all aspects of its operation and for the people working or patronizing the eligible facility.

3. Character and Reputation. The board may consider the character and reputation of all persons identified with the ownership and operation of the eligible facility, and their capability to comply with the regulations of the board and the provisions of the act.

4. Miscellaneous. The board may consider such other factors as may arise in the circumstances presented by a particular application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:736 (April 2000).

§2131. Timetable for Financing and Construction

In conjunction with an applicant's submission of its completed application, an applicant shall submit a timetable for financing arrangements, commencement and completion of construction activities and set forth the date upon which gaming activities will begin. This timetable will be subject to approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000).

§2133. License Term and Filing of Application

A. Type A licenses shall expire five years from the date the license was granted and may be renewed for succeeding five year periods.

B. Each application, including renewal applications, shall be deemed filed with the board when the application form has been received by the division, as evidenced by a signed receipt.

C. Renewal applications for Type A licenses shall be submitted to the division no later than one hundred twenty days prior to the expiration of the license.

D. All renewal applications for permits shall be submitted to the division no later than 60 days prior to the expiration of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000).

§2137. Fingerprinting

An initial application is not complete unless the applicant, any person who is an officer, director or holder who has a 5 percent or greater economic interest in the applicant has submitted to fingerprinting by or at the direction of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000).

§2141. Renewal Applications

A. Applications for renewal of a license or permits shall be made by way of forms prescribed by the board and shall contain all information requested by the board. Prescribed forms shall contain a statement made, under oath, by the applicant, each officer or director of the applicant, and each person with a 5 percent or greater economic interest in the applicant that any and all changes in the history and financial information provided in the previous application have been disclosed.

B. Renewal applications shall further contain:

1. a list of all civil lawsuits to which the applicant is a party instituted since the previous application;

2. a current list of all stockholders of the applicant, if the applicant is a corporation, or list of all partners or persons with a 5 percent or greater economic interest in the applicant;

3. a list of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant or parent corporation of the applicant, if applicable;

4. prior year's corporate or company tax return of the applicant;

5. a list of all charitable and political contributions made by the applicant during the last three years, indicating the recipient and amount contributed.

C. The board or division may require an applicant to provide all other such documentation or information as is necessary to determine suitability of the applicant or to discharge their duties under the act and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000).

§2143. Conduct of Investigation; Time Requirements

All investigations conducted by the division in connection with an application shall be conducted in accordance with the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000).

§2144. Reserved

§2146. Subpoenas and Subpoenas Duces Tecum

The division or the board shall have the authority to compel the attendance of witnesses or production of documents under the authority of the division or jurisdiction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000).

§2151. Waiver of Privilege

An applicant may claim any privilege afforded by the Constitution of the United States or of the state of Louisiana in refusing to provide information to, answer questions of or cooperate in any investigation by the division or board; but a claim of privilege with respect to any testimony or evidence may constitute sufficient grounds for denial of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000).

§2155. Withdrawal of Application

A request for withdrawal of an application shall be made in writing to the chairman at any time prior to issuance by the board of its determination with respect to the application. The board may deny or grant the request with or without prejudice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000).

§2157. Application After Denial

Any person whose application for license or permit has been denied by the board, and who has not successfully appealed the decision of denial, or whose application has been withdrawn with prejudice is not eligible to reapply for any approval authorized by the act for a period of five years unless the board rules that the denial is without prejudice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000).

§2158. Criteria for the Issuances of Permits

All applicants for a permit issued by the board or division as authorized by these regulations shall meet the qualification requirements contained in the act and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000).

§2159. Gaming Employee Permits Required

A. No person may be employed as a gaming employee unless such person is the holder of a valid gaming employee permit issued by the board.

B. The licensee shall secure an application and fingerprint cards from the division for each prospective employee.

C. The division may investigate the applicant and may either recommend approval, denial, or conditional approval of the gaming employee permit to the board.

D. The board may issue a conditional permit subject to denial of the application for a gaming employee permit. Upon the denial of the application, the employee shall surrender his permit to the division or a person designated by the division and cease working as a gaming employee. Since temporary gaming employee permits are issued as a convenience to the licensee and to the gaming employee, a temporary permit is not valid unless the applicant for the gaming employee permit shall agree in writing to the rules regarding temporary permits.

E. A gaming employee permit is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000).

§2161. Application for Gaming Employee Permit; Procedure

An applicant for a gaming employee permit shall submit to fingerprinting at the direction of the division and supply two passport size photographs. The photographs must be satisfactory to the division and must have been taken not earlier than three months before the date of filing the application. The applicant shall also provide any other information requested by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000).

§2165. Display of Gaming Identification Badge

A permittee shall have on his person and shall clearly display his gaming employee identification badge issued by the Type A licensee at all times during work hours. The badge shall meet all requirements of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000).

Chapter 23. Compliance, Inspections and Investigations

§2301. Applicability and Resources

The division shall conduct inspections and investigations relative to compliance with the act and these rules and regulations. The board and division are empowered to employ such personnel as may be necessary for such inspections and investigations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000).

§2303. Inspections and Observations

The division is empowered to make periodic inspections of all eligible facilities where gaming will be conducted, and the premises where gaming equipment or gaming devices are manufactured, sold or distributed, during construction and thereafter. The division shall further observe gaming activities and operations and inspect gaming equipment and supplies in and destined for eligible facilities to ensure compliance with the act and regulations. Such inspections and observations may or may not be made known to the applicant, licensee or permittee. All requests for access to premises and production of records and documents in connection with any inspection shall be granted in accordance with the provisions of the act and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000).

§2305. Inspections During Construction

A. The division or agents of the division may inspect the eligible facility during construction. Upon presentation of identification, any designated agent of the division may demand and shall be given immediate access to any place where construction of the designated facility or any of its component parts is underway. The division shall ensure that the eligible facility:

1. complies with the plans and specifications and any applicable change orders; or
2. does not comply with the plans and specifications or applicable change orders, in which event a description of such noncompliance would be forwarded to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000).

§2307. Investigations

All investigations of any alleged violations of the act or of the rules and regulations by an applicant, licensee or permittee must be conducted by the division and may or may not be made known to the applicant, licensee or permittee before being completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:739 (April 2000).

§2309. Investigative Powers of the Board and Division

A. In conducting an investigation, the board and division are empowered to:

1. inspect and examine the entire premises wherein gaming activities are conducted, proposed to be conducted or gaming devices are maintained or repaired and where all papers, books, records, documents and electronically stored media are maintained;

2. summarily seize and remove gaming equipment and devices from such premises and impound any equipment for the purpose of examination and inspection;

3. have access to inspect, examine, photocopy and if necessary seize, all papers, books, records, documents and information of an applicant, licensee, or permittee pertaining to the licensed or permitted operation or activity, on all premises where such information is maintained;

4. review all papers, books, records, and documents pertaining to the licensed or permitted operation;

5. issue subpoenas, as provided in this chapter, in connection with any investigative hearing conducted by the division;

6. conduct investigative hearings; and

7. issue written interrogatories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:739 (April 2000).

§2311. Seizure and Removal of Gaming Equipment and Devices

A. Gaming devices and equipment may be summarily seized by the division. Whenever the division seizes and removes gaming equipment or devices:

1. an inventory of the equipment or devices seized will be made by the division, identifying all such equipment or devices as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or devices will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the licensee or permittee will be notified in writing by the division at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or device is to be impounded. A copy of the inventory of the seized equipment or device will be provided to the licensee or permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:739 (April 2000).

§2315. Seized Equipment and Devices as Evidence

A. All gaming equipment and gaming devices seized by the division shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the division upon their seizure and may be disposed of by the division, which disposition shall be documented as to date and manner of disposal;

2. the division shall notify by certified mail each known claimant of a cheating device that the claimant has 10 days from the date of the notice within which to file a written claim with the division to contest the characterization of the property as a cheating device;

3. failure of a claimant to timely file a claim as provided in Paragraph 2 above will result in the division's pursuit of the destruction of property;

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within fifteen days after final determination;

5. items seized for inspection or examination may be returned by the division without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:739 (April 2000).

§2317. Subpoenas in Connection with Investigative Hearings

The board has full power and authority to issue subpoenas and compel the attendance of witnesses in accordance with the act and these regulations and for investigative hearings at any place within the state, including subpoenas compelling production of documents, and to administer oaths and require testimony under oath. Any such subpoena issued by the board will be served in a manner consistent with the service of process and notices in civil actions. The board may require reasonable fees to be submitted with subpoenas, in order to pay transportation and related expenses that may occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:739 (April 2000).

§2319. Contempt

For failure or refusal to comply with any subpoena or order issued by the board and duly served, the board may cite the subpoenaed party for contempt and may impose a fine as provided in the laws of the state of Louisiana. Such contempt citations and fines may be appealed to the Nineteenth Judicial District Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:739 (April 2000).

§2321. Investigative Hearings

Investigative hearings shall be conducted by the division or by a hearing officer appointed by the board, at such times and places, as may be convenient to the division. Investigative hearings may be conducted in private at the discretion of the division or hearing officer. A transcript of the hearing shall be made by a licensed court reporter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:740 (April 2000).

§2323. Interrogatories

All interrogatories propounded by the board and/or the division shall be in writing and shall be served in the manner consistent with the service of process in civil actions. The respondent is entitled to fifteen days within which to respond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:740 (April 2000).

§2327. Proof of Compliance

Any notice issued by the division to a licensee or permittee regarding a violation of the act or of the rules adopted pursuant to the act may include a statement that the licensee or permittee may submit proof of compliance with the act and of the rules adopted pursuant to the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:740 (April 2000).

§2329. Notification of Vendor Recommendations or Solicitations

A. All licensees shall report on the last day of each month, in writing, to the gaming control board the name, address, and telephone number of any person or legal entity who or which recommends to or solicits through any agent, employee or representative, who has authority to contract for the licensee, for the purpose of the licensee considering the purchase of goods and/or services from a particular vendor. The licensee shall report the name, address, and telephone number of the recommended vendor to the board at the same time. This provision shall only apply to the solicitation or purchase of goods and/or services with a value in excess of \$5,000. This provision shall not apply to any recommendations made to the licensee for the hiring of employees working in the day-to-day operations of the eligible facility.

B. Vendor, for the purposes of this rule, shall include, but is not limited to, any manufacturer, distributor, gaming supplier, nongaming supplier, junket representative, professional, independent contractor, consultant, or other person in the business of providing goods and services regardless of whether required to be licensed, permitted, or registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:740 (April 2000).

§2331. Supplier Permit Criteria

A. The division shall determine whether suppliers providing goods and/or services to licensees are legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing goods and/or services procured by licensees;
2. number of employees;
3. total customer base;
4. dollar volume of all sales compared to sales to licensees;
5. existence and nature of warehouse and storage facilities;
6. existence and number of commercial delivery vehicles owned or leased;
7. existence and nature of business offices, equipment and facilities;
8. whether the goods and/or services provided to the licensee are brokered, and if so, whether the actual supplier distributes through brokers as a common business practice;
9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:740 (April 2000).

Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions

§2501. Transfers in General

A. The transfer of a license, permit, or of an application for a license or permit is prohibited. The transfer of an interest in a license, permit, or of an application for a license or permit is also prohibited.

B. The transfer of more than 50 percent ownership interest or economic interest in a licensee is prohibited. A transfer of ownership interest or economic interest in the licensee that has the effect of transferring control of the licensee is prohibited.

1. Ownership interest is defined to include owning shares or securities issued by a corporation, being a partner in any kind of partnership, being a member of a limited liability company, or owning or possessing any interest in any other kind of legal entity.

2. Economic interest means any interest in a license or licensee whereby a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other economic benefit.

C. No person shall sell, purchase, assign, lease, grant or foreclose a security interest, hypothecate or otherwise transfer, convey or acquire in any manner whatsoever, any of the following interests without prior written approval of the board by all persons involved in the transaction:

1. an economic interest of 5 percent or more in any licensee or permittee;
2. an ownership interest of 5 percent or more in any licensee or permittee other than a publicly traded corporation;
3. an economic interest of 5 percent or more in any person required to meet the qualification requirements or suitability requirements of the act.

D. The acquisition of any interest in a licensee or permittee not listed in Subsections C. 1, C. 2 and C. 3 is conditional and ineffective if disapproved by the board. The persons involved in this type of acquisition may seek prior approval of the transaction from the board.

E. The requirements of Subsection C shall apply should an accumulation of transfers occur wherein 5 percent or more ownership interest or economic interest is transferred.

F. Any person seeking any approval required by this Section shall comply with the provisions of this Chapter unless the board waives any or all of the requirements after the receipt of a written request made by such person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:740 (April 2000).

§2503. Requirements of Full Disclosure

A. No person shall transfer or convey in any manner whatsoever any interest of any sort, in or to any person required to meet the qualification requirements and or suitability requirements of the act, by any person acting as an agent, trustee or other representative capacity for or on behalf of another person without first having fully disclosed all facts pertaining to such representation to the board and the division

B. Any person filing an application for approval of a transfer of any interest required by §2501C. or D. must provide the following to the division:

1. any application forms including personal history forms required by the board or division;
2. all documents which evince the transfer of the interest including any financing agreements;
3. all documents which evince any side agreements or related agreements regarding the transfer of any interest;
4. any other documents the division may deem necessary for a full and complete evaluation of the transferees' qualifications and suitability to hold an interest in a licensee or permittee.

C. All costs associated with the division's investigation of the application for a transfer will be born by the person seeking to acquire the interest.

D. All persons required to obtain approval under this Chapter must meet the same qualification requirements and suitability requirements as a licensee or permittee as the case may be.

E. The board shall give the applicant notice of the granting or denying of its application for a transfer. The granting of an application for a transfer may be subject to any condition, limitation or restriction in the same manner as the granting of a license or permit. The applicant shall indicate its acceptance of any condition, limitation or restriction in a manner approved by the board. The notice required by this Subsection shall be sent by certified mail. An applicant served with notice of a denial may make a written request for a hearing before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:741 (April 2000).

§2505. Prior Approval of Transfers Required

A. No transfer of any interest for which prior approval is required pursuant to this Chapter may be completed unless the transfer and the transferee have been approved by the board in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:741 (April 2000).

§2507. Transfer of Economic Interest Among Licensees and/or Permittees

A. If a licensee, permittee, or person who has met the qualification requirements and suitability requirements of the act proposes to transfer an interest to another licensee, permittee, or person who has met the qualification requirements and suitability requirements of the act, then the following shall apply:

1. Both parties shall give written notice to the board of the proposed transfer, including the names and addresses of the parties, the extent of the interest proposed to be transferred and the consideration thereof;

2. The proposed transferee shall furnish the following to the board:

- a. a sworn statement explaining and identifying the source of funds used in acquiring the interest;
- b. a sworn statement by each person with an economic interest of 5 percent or more in the proposed transferee indicating that each person continues to meet the qualification and suitability requirements of the act;
- c. all documents which evince the transfer of the interest including any financing agreements;
- d. all documents which evince any side agreements or related agreements regarding the transfer of any interest;
- e. any other documents the board may deem necessary for a full and complete evaluation of the transferees' qualifications and suitability to hold an interest in a licensee.

3. The notice is deemed filed with the board when all the items required have been accepted by the board as evidenced by a signed receipt.

4. Within 10 days after the notice has been filed, the board shall notice the transferee that the notice is complete, or if incomplete, will request such additional information as is deemed necessary.

5. The division will conduct an investigation pertaining to the proposed transfer as is deemed appropriate.

6. The board shall grant or deny approval of the proposed transfer in the same manner as provided in Section 2503.E.

7. After receiving approval, the parties shall immediately notify the board when the approved transfer is actually effected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:741 (April 2000).

§2509. Transfer of Economic Interest to Nonlicensee or Nonpermittee

A. No person who owns an economic interest of five percent or more in any licensee or shall in any manner

whatsoever, transfer that economic interest to any person who is not then a licensee, or person who has met the qualification requirements of the act. No person who owns an ownership interest of 5 percent or more in any licensee or other than a corporation shall in any manner whatsoever, transfer that economic interest to any person who is not then a licensee, or person who has met the qualification requirements of the act. No person who owns an economic interest of 5 percent or more in any person required to meet the qualification requirements or suitability requirements of the act shall in any manner whatsoever, transfer that economic interest to any person who is not then a licensee, or person who has met the qualification requirements of the act. None of the transfers described in this Subsection shall be effective for any purpose until the proposed transferee has applied for and obtained all licenses and permits required by the act and until the transferee has been approved by the board.

B. Should a cumulation of transfers occur wherein 5 percent or more of an interest is transferred, the entire transfer shall not be effective unless the transfer and the transferee have been approved by the board.

C. The application for approval of the transfer together with any license or permit applications must be filed at the same time with the board. All applicable fees must be paid at the time the applications are filed.

D. An investigation of any such application shall be conducted by the division. Prior to the commencement of the investigation, or while the investigation is on going, the division may request such additional information or documentation as it deems necessary for a complete investigation of the applicant.

E. The board shall grant or deny the approval for the transfer as provided for in Section 2503 E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:741 (April 2000).

§2511. Statement of Restrictions Concerning Transfers

A. All securities issued by a corporation that holds a license must bear on both sides of the certificate the following statement of restrictions:

1. "The purported sale, assignment, transfer, pledge, or other disposition of any security or securities issued by a corporation that holds a license is conditional and ineffective until approved by the Louisiana Gaming Control Board. If the board finds that the owner of this security does not meet the qualification requirements of the act, then the board may suspend or revoke the license or the board may condition the license requiring that the disqualified person or persons may not:

- a. receive dividends or interest on the securities of the corporation;
- b. exercise directly or through a trustee or nominee, a right conferred by the securities of the corporation;
- c. receive remuneration from the licensee;
- d. receive any economic benefit from the licensee;
- e. continue in an ownership or economic interest in the licensee."

B. A publicly traded corporation incorporated prior to applying for a license under the provisions of the act, is only required to put the above statement of restrictions on

securities issued after the corporation files its application for a license, permit or transfer approval with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:742 (April 2000).

§2513. Emergency Situations

A. If the provisions of §2501.C apply to a transfer of an interest in a licensee, or person who is required to meet the qualification requirements and suitability requirements of the act, is contemplated, and in the opinion of the board, the exigencies of the situation require that a proposed transferee be permitted to take part in the conduct of operations or to make available financing or credit for use in connection with such operation during the pendency of an application for a license, permit, or determination that the applicant meets the qualification requirements and suitability requirements of the act, then the board may by emergency order implement the emergency procedures described in §2515.

B. An emergency as used in this Chapter may be deemed to include, but is not limited to any of the following:

1. the licensee, or person who was required to meet the qualification requirements and suitability requirements of the act has died or has been declared legally incompetent;
2. the licensee, or person who was required to meet the qualification requirements and suitability requirements of the act is a legal entity that has been dissolved by operation of law;
3. the licensee, or person who was required to meet the qualification requirements and suitability requirements of the act has filed a petition of bankruptcy, or in the opinion of the board is or will likely become insolvent;
4. the license or permit has been suspended or revoked;
5. a person with an interest in a licensee or who was required to meet the qualification requirements and suitability requirements of the act no longer meets the qualification requirements and suitability requirements of the act;
6. a licensee, or person who was required to meet the qualification requirements and suitability requirements of the act or an interest in a licensee or is subject to foreclosure or other forced sale permitted by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:742 (April 2000).

§2515. Emergency Procedures

A. A proposed transferee who seeks to participate in an operation pursuant to an emergency order as provided in §2513 must submit a written request to the board which shall contain the following:

1. a complete description of the extent to which and the manner in which the proposed transferee will participate in the operations pending the completion of the proposed transfer of an interest;
2. a complete description of the plan for effecting the proposed transfer of the interest;
3. a complete financial statement, including the sources for all funds to be used in the transfer and that will

be used in the participation prior to the completion of the transfer;

4. full, true and correct copies of all documents pertaining to the proposed transfer, including but not limited to all agreements between the parties, leases, notes, mortgages or deeds of trust, and pertinent agreements or other documents with or involving third parties;

5. a complete description of any and all proposed changes in the manner or method of operations, including but not limited to the identification of all proposed changes of and additions to supervisory personnel;

6. all such additional documentation and information as may be requested by the board or division; and

7. a certification that a copy of the request for emergency participation has been provided to the board.

B. The proposed transferee shall file a complete application with the board for approval of the transfer of the interest and for any necessary license or permit as provided in §2507 within five days after an order for emergency participation has been issued. The board may waive any or all of the requirements of this Subsection upon written request of the proposed transferee with a showing of good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:742 (April 2000).

§2517. Emergency Permission to Participate; Investigation

A. After the proposed transferee has complied with the requirements of §2515, the division shall determine if all the necessary documents and information have been provided by the applicant for approval for the transfer. If the division determines all of the necessary documents and information have been provided by the proposed transferee, then the division shall notify the proposed transferee of that fact in a manner deemed appropriate by the board.

B. After the notice described in §2517.A. has been provided to the proposed transferee, the division shall commence the background investigation of the proposed transferee. The division may request such additional documents and information during the investigation as it deems necessary. Upon the conclusion of the background investigation, the board may grant or deny the request for emergency participation. No hearing will be granted to review the denial of a request for emergency participation. Any conditions imposed by the board on a proposed transferee must be accepted by the proposed transferee in a manner approved by the board prior to the board granting a request for emergency participation.

C. Emergency permission to participate shall be defined with respect to time, and must be limited as follows:

1. pending final action on the application of a proposed transferee, the existing licensee, or person who has met the qualification requirements and suitability requirements of the act and the transferee approved for emergency participation shall both be responsible for the payment of all taxes, fees and fines, and for acts or omissions of each;

2. no proposed transferee who has been granted emergency permission in writing to participate shall receive any portion of the net gaming proceeds from the gaming operations or any profits from other operations of the licensee until final approval of the proposed transfer of the interest has been granted subject to the exception contained in §2517.C.3. If approval is granted, such approval shall be retroactive to the effective date of the emergency participation;

3. a proposed transferee who has been granted emergency permission to participate and who actually renders services to the licensed operation or the permitted operation may be compensated for any services actually rendered, but such compensation is subject to prior written approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:743 (April 2000).

§2519. Effect of Emergency Permission to Participate; Withdrawal

A. The granting of emergency permission to participate is a revocable privilege. The granting of emergency permission to participate is not a finding by the board that the applicant for emergency participation meets the qualification requirements or suitability requirements of the act. Such emergency permission to participate is without prejudice to any action that the board or the division may take with respect to any application for final approval of the proposed transfer of interest. All emergency permissions to participate are subject to the condition that they may be revoked or suspended at any time without a right to a hearing to review the board's decision. The provisions contained in this Section are to be considered a part of any emergency participation granted by the board, whether or not they are included in the order granting such emergency participation.

B. Upon notice that emergency permission to participate has been withdrawn, suspended, or revoked, the proposed transferee with such permission shall immediately terminate any participation whatsoever in the operations of the licensee, or person required to meet the qualification requirements and suitability requirements of the act. Anything of value, including money, contributed to the operations of the licensee, or person required to meet the qualification requirements and suitability requirements of the act shall be immediately returned to the proposed transferee. Noncompliance with this Section shall be considered a violation of the act and of the rules of the board by all concerned parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:743 (April 2000).

§2521. Loans and Lines of Credit

No licensee, or person on behalf of a licensee shall borrow money, receive, accept, or make use of any cash, property, credit, line of credit, or guarantee, or grant any other form of security for any loan except in accordance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:743 (April 2000).

§2523. Board Actions Concerning Loans and Lines of Credit

A. Whenever any licensee or person acting on behalf of a licensee ("borrower" herein), applies for, receives, accepts, or modifies the terms of any loan, line of credit, third-party financing agreement, sale with buy-back or lease-back provisions or similar financing transaction, or makes use of any cash, property, credit, loan or line of credit, or guarantees, or grants other form of security for a loan, such borrower shall notify the board in writing no less than sixty days prior to such transaction, unless more stringent conditions are imposed by the board. Such notice shall include the following:

1. the names and addresses of all the parties to the transaction;
2. the amounts and sources of funds;
3. the property or credit received or applied;
4. the nature and the amount of security provided by or on behalf of the borrower or person required to meet the applicable qualification requirements and suitability requirements of the act;
5. the specific nature and purpose of the transaction; and
6. such other information and documentation the board or division may require.

B. The report described in Subsection A. of this Section shall be signed under oath by the borrower, an authorized representative of the borrower, or person required to meet the applicable qualification requirements and suitability requirements of the act.

C. All transactions described in Subsection A. of this Section require prior written approval by the board unless:

1. the amount of the transaction does not exceed \$2,500,000 and all of the lending institutions involved therein are federally regulated financial institutions;
2. the loan amount of the transaction does not exceed \$1,000,000 and all of the lending entities are qualified parties;
3. the transaction is exempted from the prior written approval requirement pursuant to the provisions of Section 2524 of this Chapter;
4. the loan amount does not exceed \$500,000 and the transaction is one other than those described in Subsection C.1, 2, or 3 of this Section;
5. the transaction modifies the terms of an existing loan or line of credit which has been previously approved pursuant to this Section, and after preliminary investigation pursuant to Subsection D of this Section, the board determines that the modification does not substantially alter such terms.

D. The board, after preliminary review, shall determine whether the transaction is exempt from the requirement of prior written approval, and shall notify the borrower of the determination.

E. In the event the transaction is not determined exempt pursuant to Subsection C., the board shall render a decision approving or disapproving the transaction.

F. If the transaction is disapproved, the decision of the board shall be in writing and shall set forth detailed reasons for such disapproval.

G. The board may require that the transaction be subject to conditions which must be accepted by all parties prior to approval. The acceptance of such conditions shall be in a manner approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:744 (April 2000).

§2524. Publicly Registered Debt and Securities

If the transaction described in Subsection 2523 A of this Chapter involves publicly registered debt and securities registered with the Securities and Exchange Commission (SEC), and sold pursuant to a firm underwriting understanding agreement, no board approval is required; however, in addition to filing the notice required in Subsections 2523 A and B, the borrower shall:

A. file with the board, within one business day after filing with the SEC, copies of all registration statements and all final prospectus with respect to such debt securities and will give notice to the division within one business day of the effectiveness of such registration statement; and

B. file a report with the board within 45 days after the completion of sales under such registration, setting forth the amount of securities sold and the identities of the purchasers thereof from the underwriters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:744 (April 2000).

§2527. Escrow Accounts

A. No money or other thing of value shall be paid, remitted, or distributed, directly or indirectly, to a proposed transferee, including a transferee with emergency permission to participate, until the board has approved the transfer and the transferee.

B. All money or other things of value to be paid, remitted, or distributed, directly or indirectly, to a proposed transferee, including a transferee with emergency permission to participate, shall be placed in escrow in a manner acceptable to the board until final approval of the board has been issued regarding the transfer and the transferee.

C. Upon approval of the transfer and the transferee, the money or other things of value held in escrow may be distributed to the transferee.

D. If the transfer or the transferee is disapproved by the board, any money or other thing of value placed in escrow shall be returned to the person depositing the money or other thing of value in escrow.

E. A transferee with emergency permission to participate may be paid such compensation for services rendered as has been approved by the board in writing without such compensation being placed in escrow.

F. Any violation of this Section shall be grounds to disapprove the transfer or the transferee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:744 (April 2000).

Chapter 27. Accounting Regulations

§2701. Procedure for Reporting and Paying Taxes and Fees

A. All Daily Tax Remittance Summary reports, together with all necessary subsidiary schedules, shall be submitted to the division no later than 48 hours from the end of the licensed eligible facility's specified gaming day. For reporting purposes, licensed eligible facility's specified gaming day (beginning time to ending time) shall be submitted in writing to the division prior to implementation. For licensed eligible facilities which offer 24 hour gaming, gaming day is the 24 hour period by which the entity keeps its books and records for business, accounting, and tax purposes. Each licensed eligible facility shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted to the division 10 days prior to implementation of the change. All taxes related thereto must be electronically transferred to the State's or District's designated bank account as directed by the division. In addition to any other administrative action, civil penalties, or criminal penalties, licensed eligible facilities who are late in electronically transferring these taxes may retroactively be assessed late penalties of 15 percent of the amount due per annum after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Interest may be imposed on the late payment of taxes at the daily rate of .00041 multiplied by the amount of unpaid taxes for each day the payment is late.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:745 (April 2000).

§2703. Accounting Records

A. The following requirements shall apply throughout all of Chapter 27:

1. Each licensed eligible facility, in such manner as the division may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to taxes under the act. Each licensed eligible facility shall keep records of all transactions impacting the financial statements of the licensed eligible facility, including, but not limited to, contracts or agreements with suppliers/vendors, contractors, consultants, attorneys, accounting firms; accounts/trade payable files; insurance policies; bank statements, reconciliations and canceled checks. Each licensed eligible facility that keeps permanent records in a computerized or microfiche fashion shall upon request immediately provide agents of the division with a detailed index to the microfiche or computer record that is indexed by entity department and date, as well as access to a microfiche reader. Only documents which do not contain original signatures may be kept in a microfiche or computerized fashion.

2. Each licensed eligible facility shall keep general accounting records on a double entry system of accounting, with transactions recorded on a basis consistent with generally accepted accounting principles, maintaining detailed, supporting, subsidiary records, including but not limited to:

a. detailed records identifying revenues by day, expenses, assets, liabilities, and equity for each establishment;

b. detailed records of all markers, IOU's, returned checks, hold checks, or other similar credit instruments;

c. individual and statistical game records to reflect drop, win, and the percentage of win to drop for each slot machine, and to reflect drop, win, and the percentage of win to drop for each type of slot machine, for each day or other accounting periods approved by the division;

d. slot analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages;

e. for each licensed eligible facility, the records required by the licensed eligible facility's system of internal control;

f. journal entries and all workpapers (electronic or manual) prepared by the licensed eligible facility and its independent accountant;

g. records supporting the accumulation of the costs for complimentary services and items. A complimentary service or item provided to patrons in the normal course of the licensed eligible facility shall be expended at an amount based upon the full cost of such services or items to the licensed eligible facility;

h. detailed token perpetual inventory records which identify the purchase, receipt, and destruction of tokens from all sources as well as any other necessary adjustments to the inventories. The recorded accountability shall be verified periodically via physical counts. The division shall have an agent, or its designee, present during destruction of any tokens;

i. workpapers supporting the daily reconciliation of cash and cash equivalent accountability;

j. financial statements and supporting documents; and

k. any other records that the division specifically requires be maintained.

3. Each licensed eligible facility shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its gaming operations.

4. If a licensed eligible facility fails to keep the records used by it to calculate gross and net slot machine proceeds, or if the records kept by the licensed eligible facility to compute gross and net slot machine proceeds are not adequate to determine these amounts, the division may compute and determine the amount of taxable revenue based on an audit conducted by the division, any information within the division's possession, or upon statistical analysis.

5. The division may review or take possession of records at any time upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:745 (April 2000).

§2705. Records of Ownership

A. Each corporate licensed eligible facility shall keep on the premises of its gaming establishment the following documents pertaining to the corporation:

1. a certified copy of the articles of incorporation and any amendments;

2. a copy of the bylaws and any amendments;

3. a copy of the certificate issued by the Louisiana Secretary of State authorizing the corporation to transact business in Louisiana;

4. a list of all current and former officers and directors;

5. a certified copy of minutes of all meetings of the stockholders;

6. a certified copy of minutes of all meetings of the directors;

7. a list of all stockholders listing each stockholder's name, birth date, social security number, address, the number of shares held, and the date the shares were acquired;

8. the stock certificate ledger;

9. a record of all transfers of the corporation's stock;

10. a record of amounts paid to the corporation for issuance of stock and other capital contributions; and

11. a schedule of all salaries, wages, and other remuneration (including perquisites), direct or indirect, paid during the calendar or fiscal year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to 5 percent or more of the outstanding capital stock of any class of stock.

B. Each limited liability company licensed eligible facility shall keep on the premises of its gaming establishment the following documents pertaining to the company:

1. a certified copy of the articles of organization and any amendments;

2. a copy of the "Initial Report" setting forth location and address of registered office and agent(s);

3. a copy of required records to be maintained at the registered office of the LLC, including current list of names and addresses of members and managers;

4. a copy of the operating agreement and amendments; and

5. a copy of the certificate of organization issued by the Louisiana Secretary of State evidencing that the limited liability company has been organized.

C. Each partnership or joint venture shall keep on the premises of its gaming establishment the following documents pertaining to the partnership:

1. a copy of the partnership agreement and, if applicable, the certificate of limited partnership;

2. a list of the partners including their names, birth date, social security number, addresses, the percentage of interest held by each, the amount and date of each capital contribution of each partner, and the date the interest was acquired;

3. a record of all withdrawals of partnership funds or assets; and

4. a schedule of salaries, wages and other remuneration (including perquisites), direct or indirect, paid to each partner during the calendar or fiscal year.

D. Each sole proprietorship licensed eligible facility shall keep on the premises of its gaming establishment:

1. a schedule showing the name, birth date, social security number and address of the proprietor and the amount and date of the proprietor's original investment and of any additions and withdrawals;

2. a schedule of salaries, wages and other remuneration (including perquisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:745 (April 2000).

§2707. Record Retention

Upon request, each licensed eligible facility shall provide the division, at a location approved by the division, with the records required to be maintained by this Chapter. Each licensed eligible facility shall retain all such records for a minimum of five years in a parish approved by the division. In the event of a change of ownership, records of prior owners shall be retained in a parish approved by the division for a period of five years unless otherwise approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000).

§2709. Standard Financial Statements

A. The division shall prescribe a uniform chart of accounts including account classifications in order to insure consistency, comparability, and appropriate disclosure of financial information. The prescribed chart of accounts shall be the minimum level of detail to be maintained for each accounting classification by the holder of an owner's license. All licensed eligible facilities shall prepare their financial statements in accordance with this chart or in a similar form that reflects the same information.

B. Each licensed eligible facility shall furnish to the division on a form, as prescribed by the division, a quarterly financial report. The quarterly financial report shall present all data on a monthly basis as well. Monthly financial reports shall include reconciliation of general ledger amounts with amounts reported to the division. The quarterly financial report shall be submitted to the division no later than sixty days following the end of each quarter.

C. Each licensed eligible facility shall submit to the division one copy of any report, including but not limited to Forms S-1, 8-K, 10-Q, and 10-K, required to be filed by the licensed eligible facility with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within ten days of the time of filing with such commission or agency or the due date prescribed by such commission or regulatory agency, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000).

§2711. Audited Financial Statements

A. Each licensed eligible facility shall submit to the division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier, audited financial statements reflecting all financial activities of the licensed eligible facility's establishment prepared in accordance with generally

accepted accounting principles and subjected to an examination conducted according to generally accepted auditing standards by an independent Certified Public Accountant (CPA). The CPA shall incorporate the guidelines established by the division into current procedures for preparing audited financial statements. The submitted audited financial statements required under this part shall be based on the licensed eligible facility's business year as approved by the division. If the licensed eligible facility or a person controlling, controlled by, or under common control with the licensed eligible facility owns or operates food, beverage or retail facilities or any related facilities or buildings, the financial statement must further reflect these operational records.

B. The reports required to be filed pursuant to this Section shall be sworn to and signed by:

1. if from a corporation:
 - a. Chief Executive Officer; and either the
 - b. Financial Vice President; or
 - c. Treasurer; or
 - d. Controller;
2. if from a partnership, by a general partner and financial director;
3. if from a sole proprietorship, by the proprietor; or
4. if from any other form of business association, by the Chief Executive Officer.

C. All of the audits and reports required by this Section shall be prepared at the sole expense of the licensed eligible facility.

D. Each licensed eligible facility shall engage an independent Certified Public Accountant (CPA) licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The licensed eligible facility may select the independent CPA with the division's approval. Should the independent CPA previously engaged as the principal accountant to audit the licensed eligible facility's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensed eligible facility shall file a report with the division within ten days following the end of the month in which the event occurs, setting forth the following:

1. the date of the resignation, dismissal, or engagement;
2. any disagreements with a former accountant, in connection with the audits of the two most recent years, on any matter of accounting principles, or practice, financial statement disclosure, auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreement; including a description of each such disagreement; whether resolved or unresolved;
3. whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified. The nature of such adverse opinion or a disclaimer of opinion, or qualification shall be described; and
4. a letter from the former accountant furnished to the licensed eligible facility and addressed to the division stating whether he agrees with the statements made by the licensed

eligible facility in response to this Section of the licensed eligible facility's submission of accounting and internal control.

E. Unless the division approves otherwise in writing, the statements required must be presented on a comparative basis. Consolidated financial statements may be filed by commonly owned or operated establishments, but the consolidated statements must include consolidating financial information or consolidated schedules presenting separate financial statements for each establishment licensed to conduct gaming by the division. The CPA shall express an opinion on the consolidated financial statements as a whole and shall subject the accompanying consolidating financial information to the auditing procedures applied in the examination of the consolidated financial statements.

F. Each licensed eligible facility shall submit to the division two originally signed copies of its audited financial statements and the applicable CPA's letter of engagement not later than 120 days after the last day of the licensed eligible facility's business year. In the event of a license termination, change in business entity, or a change in the percentage of ownership of more than 20 percent, the licensed eligible facility or former licensed eligible facility shall, not later than 120 days after the event, submit to the division two originally signed copies of audited statements covering the period between the filing of the last financial statement and the date of the event. If a license termination, change in business entity, or a change in the percentage of ownership of more than 20 percent occurs within 120 days after the end of the business year for which a statement has not been submitted, the licensed eligible facility may submit statements covering both the business year and the final period of business.

G. If a licensed eligible facility changes its fiscal year, the licensed eligible facility shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period or incorporate the financial results of the period into the statements for the new business year.

H. Reports that directly relate to the independent CPA's examination of the licensed eligible facility's financial statements must be submitted within 120 days after the end of the licensed eligible facility's business year. The CPA shall incorporate the guidelines established by the division into current procedures for preparing the reports.

I. Each licensed eligible facility shall engage an independent CPA to conduct a quarterly audit of the net gaming proceeds. Two signed copies of the auditor's report shall be forwarded to the division not later than 60 days after the last day of the applicable quarter. For purposes of this part, quarters are defined as follows: January through March, April through June, July through September and October through December. The CPA shall incorporate the guidelines established by the division into current procedures for preparing the quarterly audit.

J. The division may request additional information and documents from either the licensed eligible facility or the licensed eligible facility's independent CPA, through the licensed eligible facility, regarding the financial statements or the services performed by the accountant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000).

§2713. Cash Reserve and Bonding Requirements; General

A. Each licensed eligible facility shall maintain in cash or cash equivalent amounts sufficient to protect patrons against defaults in gaming debts owed by the holder of an owner's license as defined below:

SLOTS: Nonprogressive:
Number of Machines x \$50= _____
Progressive:
Total of all in house progressive jackpots: _____
OTHER: Operating Accounts Payable: _____
(amount equal to two weeks payables)
Payroll for Two Weeks : _____
Debt Service for One Month: _____
TOTAL REQUIREMENTS: _____
CASH RESERVE COMPRISED OF
Cash in Cage : _____
Cash in Banks, TCD, Savings, Etc.: _____
Entity's Cash on Hand (Do not include slot
machine bucket cash): _____
Less: Safekeeping Money (_____) _____
TOTAL CASH RESERVE AVAILABLE: _____

B. Each licensed eligible facility may submit its own procedure for calculating its cash reserve requirement which shall be approved by the division in writing prior to implementation. Such procedure shall be implemented after the licensed eligible facility receives the division's written approval.

C. Each licensed eligible facility shall submit monthly calculations of its cash reserve to the division no later than thirty days following the end of each month.

D. Cash equivalents are defined as all highly liquid investments with an original maturity of 12 months or less and available unused lines of credit issued by a federally regulated financial institution as permitted in Chapter 25 and approved pursuant to that Chapter. Approved lines of credit shall not exceed fifty percent of the total cash reserve requirement. Any changes to the initial computation submitted to the division shall require the licensed eligible facility to resubmit the computation with all changes delineated therein including a defined time period for adjustment of the cash reserve account balance (e.g. monthly, quarterly, etc.)

E. Each licensed eligible facility shall be required to secure and maintain a bond from a surety company licensed to do business within the state of Louisiana that ensures specific performance under the provisions of the act for the payment of taxes, fines and other assessments. The amount of the bond shall be set at \$250,000 unless the division determines that a higher amount is appropriate. The licensed eligible facility shall submit the surety bond to the division prior to the commencement of gaming operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:748 (April 2000).

§2715. Internal Control; General

A. Each licensed eligible facility shall establish and implement beginning the first day of operations administrative and accounting procedures for the purpose of

determining the licensed eligible facility's liability for revenues and taxes under the act and for the purpose of exercising effective control over the licensed eligible facility's internal fiscal affairs. Each licensed eligible facility shall adhere to the procedures established and implemented under the requirements of this Section of the Administrative Rules and Regulations. The procedures shall be implemented to reasonably ensure that:

1. all assets are safeguarded;
2. financial records are accurate and reliable;
3. transactions are performed only in accordance with the licensed eligible facility's internal controls as approved by the division;
4. transactions are recorded adequately to permit proper reporting of net slot machine proceeds, taxes, and all revenues deriving from the licensed eligible facility, terminal and related facilities and to maintain accountability for assets;
5. access to assets is permitted only in accordance with the licensed eligible facility's internal controls as approved by the division;
6. recorded accountability for assets is compared with actual assets at least annually and appropriate action is taken with respect to any discrepancies;
7. functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel;
8. sensitive keys are maintained in a secure area that is subject to surveillance as follows:
 - a. all restricted sensitive keys shall be stored in an immovable dual lock box;
 - b. one key shall open only one lock on the dual lock box;
 - c. a dual key system shall be implemented wherein both keys are required to open the dual lock box and shall not be issued to different employees in the same department;
 - d. an employee shall be issued only a single key to the dual lock box; and
 - e. there shall be a surveillance camera monitoring the dual lock box at all times;
9. restricted sensitive keys are properly secured. Restricted sensitive keys shall be defined as those keys which can only be reproduced by the manufacturer of the lock or its authorized agent. These keys shall be stored in a dual lock box, with the exception of the cages, change banks/booths and the dual lock box keys. All restricted sensitive keys shall be inventoried and accounted for on a quarterly basis. These keys include but are not limited to:
 - a. slot drop cabinet keys;
 - b. bill validator release keys;
 - c. bill validator contents keys;
 - d. count room keys;
 - e. vault entrance key;
 - f. CCOM (processor) keys;
 - g. slot office storage box keys;
 - h. dual lock box keys;
 - i. change bank/booth keys;
 - j. weigh calibration key;
10. all other sensitive keys not listed in Section 2715A.9. are listed in the licensed eligible facilities' internal controls and are controlled as prescribed therein;

11. all damaged sensitive keys are disposed of timely and adequately. The licensed eligible facility shall notify the division of the destruction. Notification shall include type of key(s), number of key(s), and the place and manner of disposal;

12. all access to the count rooms and the vault is documented on a log maintained by the count team and vault personnel respectively. Such logs shall be kept in the count rooms and vault room respectively, such logs shall be available at all times, and such logs shall contain entries with the following information:

- a. name of each person entering the room;
- b. reason each person entered the room;
- c. date and time each person enters and exits the room;
- d. date, time and type of any equipment malfunction in the room;
- e. a description of any unusual events occurring in the room; and
- f. such other information required in the licensed eligible facility's internal controls as approved by the division;

13. only transparent trash bags are utilized in restricted areas.

B. Each licensed eligible facility and each applicant for a license shall describe, in such manner as the division may approve or require, its administrative and accounting procedures in detail in a written system of internal control. Each licensed eligible facility and applicant for a license shall submit a copy of its written system of internal controls to the division for approval prior to commencement of the licensed eligible facility's operations. Each written system of internal control shall include:

1. an organizational chart depicting appropriate segregation of functions and responsibilities;
2. a description of the duties, responsibilities, and access to sensitive areas of each position shown on the organizational chart;
3. a detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of §2715.A and §2325 C;
4. a flow chart illustrating the information required in Paragraphs 1, 2 and 3 above;
5. a written statement signed by an officer of the licensed eligible facility or a licensed owner attesting that the system satisfies the requirements of this Section;
6. other information as the division may require.

C. The licensed eligible facility may not implement its initial system of internal control procedures unless the division, in its sole discretion, determines that the licensed eligible facility's proposed system satisfies §2715.A., and approves the system in writing. In addition, the licensed eligible facility must engage an independent CPA to review the proposed system of internal control prior to implementation. The CPA shall forward two signed copies of the report reflecting the results of the evaluation of the proposed internal control system prior to implementation.

D. A separate internal audit department (whose primary function is performing internal audit work and who is independent with respect to the departments subject to audit) shall be maintained by either the licensed eligible facility, the parent company of the licensed eligible facility, or be

contracted to an independent CPA firm. The internal audit department or independent CPA firm shall develop quarterly reports providing details of all exceptions found and subsequent action taken by management. All material exceptions resulting from internal audit work shall be investigated and resolved. The results of the investigation shall be documented and retained within the State of Louisiana for five years.

E. Each licensed eligible facility shall require the independent CPA engaged by the licensed eligible facility for purposes of examining the financial statements to submit to the licensed eligible facility two originally signed copies of a written report of the continuing effectiveness and adequacy of the licensed eligible facility's written system of internal control 150 days after the end of the licensed eligible facility's fiscal year. Using the guidelines and standard internal control questionnaires and procedures established by the division, the independent CPA shall report each event and procedure discovered by or brought to the CPA's attention which the CPA believes does not satisfy the internal control system approved by the division. Not later than 150 days after the end of the licensed eligible facility's fiscal year, the licensed eligible facility shall submit an originally signed copy of the CPA's report and any other correspondence directly relating to the licensed eligible facility's system of internal control to the division accompanied by the licensed eligible facility's statement addressing each item of noncompliance as noted by the CPA and describing the corrective measures taken.

F. Before adding or eliminating any game; adding any computerized system that affects the proper reporting of gross revenue; adding any computerized system for monitoring slot machines or other games, or any other computerized equipment, the licensed eligible facility shall:

1. amend its accounting and administrative procedures and its written system of internal control;
2. submit to the division a copy of the amendment of the internal controls, signed by the licensed eligible facility's Chief Financial Officer or General Manager, and a written description of the amendments;
3. comply with any written requirements imposed by the division regarding administrative approval of computerized equipment; and
4. after compliance with Paragraphs 1-3 and approval has been obtained from the division, implement the procedures and internal controls as amended.

G. Any change or amendment in procedure including any change or amendment in the licensed eligible facility's internal controls previously approved by the division shall be submitted to the division for prior written approval as prescribed by the division.

H. If the division determines that a licensed eligible facility's administrative or accounting procedures or its internal controls do not comply with the requirements of this Section, the division shall so notify the licensed eligible facility in writing. Within 30 days after receiving the notification, the licensed eligible facility shall amend its procedures and written system accordingly, and shall submit a copy of the internal controls as amended and a description of any other remedial measures taken.

I. The Division can observe unannounced the transportation and count of each of the following: electronic

gaming device drop, tip box and slot jackpots, slot fills, as well as any other internal control procedure(s) implemented. For purposes of these procedures, "unannounced" means that no officers, directors or employees of the holder of the owner's license are given advance information, regarding the dates or times of such observations.

J. Except as otherwise provided in this Section, no licensed eligible facility shall make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming activity. The failure to deposit for collection a negotiable instrument by the second banking day following receipt shall be considered an extension of credit.

K. A licensed eligible facility may extend credit to a patron only in the manner(s) provided in its internal control system approved by the division.

L. The internal control system shall provide that:

1. each credit transaction is promptly and accurately recorded in appropriate credit records;

2. coupon redemption and other complimentary distribution program transactions are promptly and accurately recorded; and

3. credit may be extended only in a commercially reasonable manner considering the assets, liabilities, prior payment history and income of the patron.

M. No credit shall be extended beyond thirty days. In the event that a patron has not paid a debt created under this Section within 30 days, a holder of an owner's license shall not further extend credit to the patron while such debt is outstanding.

N. A licensed eligible facility shall be liable as an insurer for all collection activities on the debt of a patron whether such activities occur in the name of the owner or a third party.

O. The licensed eligible facility shall provide to the division a quarterly report detailing all credit outstanding from whatever source, including nonsufficient funds checks, collection activities taken and settlements, of all disputed markers, checks and disputed credit card charges pertaining to gaming. The report required under this Part shall be submitted to the division within fifteen days of the end of each quarter.

P. Each licensed eligible facility shall submit to the division, on a quarterly basis, a report of all vendors who have received \$5,000 or more from the licensed eligible facility during the previous quarter, or \$50,000 or more during the immediate twelve month period as payment for providing goods and/or services to the licensed eligible facility. This report shall include vendor name, address, type of goods/services provided, permit number (if applicable), federal tax identification number and the total amount of payments made by the licensed eligible facility or person(s) acting on behalf of the licensed eligible facility to each vendor during the previous 4 quarters. For each provider of professional services listed in this report, each licensed eligible facility shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider and the total amounts paid to each

such provider by the licensed eligible facility or any person(s) acting on behalf of the licensed eligible facility during the previous quarter. For purposes of this Section, providers of professional services include, but are not limited to, accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities. This report shall be received by the division not later than the last day of the month following the quarter being reported.

Q. The value of tokens issued to a patron upon the extension of credit, the receipt of a check or other instrument or via a complimentary distribution program shall be included in the computation of net gaming proceeds.

R. The licensed eligible facility shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the act and the division's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:748 (April 2000).

§2716. Clothing Requirements

A. All authorized persons accessing any count room when unaudited funds are present shall wear clothing without any pockets or other compartments with the exception of division agents, Security, Internal Audit, and External Audit.

B. Cage employees shall not bring purses, handbags, briefcases, bags or any other similar item into the cage unless it is transparent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:750 (April 2000).

§2717. Reserved

§2719. Internal Controls; Handling of Cash

A. Each gaming employee, owner, or licensed eligible facility who receives currency of the United States from a patron in the gaming area of a gaming establishment shall promptly place the currency in the appropriate place in the cashiers' cage cash register, or other repository approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:750 (April 2000).

§2721. Internal Controls; Tips or Gratuities

A. No gaming employee other than slot gaming employees, change persons, cashiers and bar tenders shall accept currency as a tip or gratuity from any patron, during or outside a shift unless immediately converted into value chips. Security personnel may accept currency as a tip or gratuity only outside the designated gaming areas of the licensed eligible facility.

B. No gaming employee who serves in a supervisory position shall solicit or accept, any tip or gratuity from any player or patron of the licensed eligible facility where he is employed. The licensed eligible facility shall not permit any practices prohibited by Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:750 (April 2000).

§2723. Internal Controls; Slots

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices.

B. Whenever a patron wins a jackpot that is not totally and automatically paid directly from the electronic gaming device, a slot attendant shall prepare and process according to the licensed eligible facility's internal controls, a request for jackpot payout form. A request for jackpot payout form is not required if all of the following conditions are met:

1. a slot representative manually inputs the jackpot information into the computer;
2. a jackpot slip is generated through the computer system; and
3. the cashier uses this information to pay the jackpot.

C. The request for jackpot payout form (if required) shall contain, at a minimum, the following information:

1. date and time the jackpot was processed;
2. the electronic gaming device machine number and location number;
3. the denomination of the electronic gaming device;
4. number of coins/tokens played;
5. combination of reel characteristics;
6. on short pays, amount the machine paid; and
7. amount of hand-paid jackpot.

D. Each licensed eligible facility shall use multi-part jackpot payout slips as approved by the division to document any jackpot payouts or short pays. The jackpot slips shall be in a continuous numerical series, pre-numbered by the printer in a form utilizing the alphabet, and only in one series at a time. The alphabet need not be used if the numerical series is not repeated during the business year. Manual jackpot slips may be utilized in numerical sequence by location.

1. A three-part jackpot payout slip which is clearly marked "jackpot" shall be utilized. The third copy may be the secured copy retained in the computer or whiz machine. Each jackpot slip shall include the following information:

- a. date and time the jackpot was processed;
- b. denomination;
- c. machine and location number of the electronic gaming device on which the jackpot was registered;
- d. number of coins/tokens played;
- e. dollar amount of payout in both alpha and numeric. Alpha is optional if another unalterable method is used for evidencing the amount of the jackpot or fill;
- f. game outcome including reel symbols, card values and suits, etc. for jackpot payouts;
- g. pre-printed or concurrently-printed sequential numbers;
- h. signature of the cashier;
- i. signature of two slot attendants verifying and witnessing the payout if the jackpot is less than \$1200; Signature of one slot attendant and security officer verifying and witnessing the payout if the jackpot is \$1200 or greater.

2. Jackpot slips that are voided shall be clearly marked "void" across the face of all copies. On manual slips, the first and second copies shall have "void" written across the face. The cashier and slot or cage supervisor shall print

their employee numbers and sign their names on the voided slip. The supervisor who approves the void shall print or stamp the date and time the void is approved. A brief statement of why the void was necessary shall be written on the face of all copies. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

3. Computerized jackpot/payout systems shall be restricted so as to prevent unauthorized access and fraudulent payouts by an individual.

4. Jackpot payout forms shall be controlled and routed in a manner that precludes any one individual from producing a fraudulent payout by forging signatures, or by altering the amount paid subsequent to the payout, and misappropriating the funds. One copy of the jackpot payout slip shall be retained in a locked box located outside the change booth/cage where jackpot payout slips are executed or as otherwise approved by the division.

5. Jackpot overrides shall have the notation "override" printed on all copies. Jackpot override reports shall be run on a daily basis.

6. Jackpot payout slips shall be used in sequential order.

E. If a jackpot is \$1,200 or greater in value, the following information shall be obtained by the slot attendant prior to payout and for preparation of a form W-2G:

1. valid ID;
2. name, address, and social security number (if applicable) of the patron;
3. amount of the jackpot; and
4. any other information required for completion of the form W-2G.

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or licensed eligible facility's shift manager in addition to Subsection D and E.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F.

H. If the jackpot is \$100,000 or more, the licensed eligible facility shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division Agent. Once a division Agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a licensed eligible facility shift manager.

I. Each licensed eligible facility shall use multi-part slot fill slips as approved by the division to document any fill made to a slot machine hopper. The fill slips shall be in a continuous numerical series, pre-numbered by the printer in a form utilizing the alphabet, and only in one series at a time. The alphabet need not be used if the numerical series is

not repeated during the business year. Manual fill slips may be utilized in numerical sequence by location.

1. A three-part slot fill slip which is clearly marked "fill" shall be utilized. The third copy may be the secured copy retained in the computer or whiz machine. Each fill slip shall include the following information:

- a. date and time;
- b. machine and location number;
- c. dollar amount of slot fill in both alpha and numeric. Alpha is optional if another unalterable method is used for evidencing the amount of the slot fill;
- d. signatures of at least two employees verifying and witnessing the slot fill; and
- e. pre-printed or concurrently-printed sequential number.

2. Computerized slot fill slips shall be restricted so as to prevent unauthorized access and fraudulent slot fills by one individual.

3. Hopper fill slips shall be controlled and routed in a manner that precludes any one individual from producing a fraudulent fill by forging signatures, or by altering the amount paid subsequent to the fill, and misappropriating the funds. One copy of the hopper fill slip shall be retained in a locked box located outside the change booth/cage where hopper fill slips are executed or as otherwise approved by the division.

4. The initial slot fills shall be considered part of the coin inventory and shall be clearly designated as "slot loads" on the slot fill slip.

5. Slot fill slips that are voided shall be clearly marked "void" across the face of all copies. On manual slips, the first and second copies shall have "void" written across the face. The cashier and slot or cage supervisor shall print their employee numbers and sign their names on the voided slip. The supervisor who approves the void shall print or stamp the date and time the void is approved. A brief statement of why the void was necessary shall be written on the face of all copies. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

6. Slot fill slips shall be used in sequential order.

J. Each licensed eligible facility shall remove the slot drop from each machine according to a schedule, submitted to the division, setting forth the specific times for such drops. All slot drop buckets, including empty slot drop buckets, shall be removed according to the schedule. Each licensed eligible facility shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. The division reserves the right to deny a licensed eligible facility's drop schedule with cause. Emergency drops, including those for maintenance and repairs which require removal of the slot drop bucket, require written notification to the division within 24 hours. Prior to opening any slot machine, emptying or removing any slot drop bucket, security and surveillance shall be notified that the drop is beginning.

1. The slot drop process shall be monitored in its entirety and video taped by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance employee shall monitor the drop process at all times. This employee shall record on the surveillance log the time that the drop process begins and ends, as well as any exceptions or

variations to established procedures observed during the drop.

2. Each licensed eligible facility shall submit its drop transportation route from the gaming area to the count room to the division prior to implementing or changing the route.

3. A minimum of three employees shall be involved in the removal of the slot drop, at least one of whom is independent of the slot department.

4. Drop team shall collect each drop bucket and ensure that the correct tag or number is added to each bucket.

5. Security shall be provided over the slot buckets removed from the slot drop cabinets prior to being transported to the count area. Slot drop buckets must be secured in a locked slot drop cabinet/cart during transportation to the count area.

6. If more than one trip is required to remove the slot drop from all of the machines, the filled carts or coins shall be either locked in the count room or secured in another equivalent manner as approved by the division.

7. At least once per year, in conjunction with the regularly scheduled drop, a complete *sweep* shall be made of hopper and drop bucket cabinets for loose tokens and coins. Such tokens/coins should be placed in respective hoppers and drop buckets and not commingled with other machines.

8. Once all drop buckets are collected, the drop team shall notify security and surveillance that the drop has ended.

9. On the last gaming day of each calendar month, the licensed eligible facility's drop shall include both drop buckets and currency acceptor drop boxes of all slot machines.

K. The contents of the slot drop shall be counted in a hard count room according to a schedule, submitted to the division, setting forth the specific times for such counts.

1. The issuance of the hard count room key, shall be witnessed by two gaming employees, who shall be from different departments. Neither of these two employees shall be members of the count team.

2. Access to the hard count room during the slot count shall be restricted unless three count team members are present. All persons exiting the count room, with the exception of division agents, shall be wanded by Security with a properly functioning hand-held metal detector (wand). A log shall be maintained in the count room and shall contain the following information:

- a. name of each person entering the count room;
- b. reason each person entered the count room;
- c. date and time each person enters and exits the count room;
- d. date, time and type of any equipment malfunction in the count room; and
- e. a description of any unusual events occurring in the count room.

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance or internal audit employee shall monitor the count process at least two randomly selected days per calendar month. This employee shall record on the surveillance log the times that the count process begins and ends, as well as any exceptions

or variations to established procedures observed during the count, including each time the count room door is opened. If surveillance observes the visibility of the count team's hands or other activity is continuously obstructed at any time, surveillance shall immediately notify the count room employees.

4. Prior to each count, the count team shall perform a test of the weigh scale. The results shall be recorded and signed by at least two count team members. The initial weigh/count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team shall not be the same three employees more than four days per week.

5. The slot count team shall be independent of the generation of slot revenue and the subsequent accountability of slot count proceeds. Slot department employees can be involved in the slot count and/or subsequent transfer of the wrap, if they perform in a capacity below the level of slot shift supervisor.

6. The following functions shall be performed in the counting of the slot drop.

a. The slot weigh and wrap process shall be controlled by a count team supervisor. The supervisor shall be precluded from performing the initial recording of the weigh/count unless a weigh scale with a printer is used.

b. Each drop bucket shall be emptied and counted individually. Drop buckets with zero drop shall be individually entered into the computerized slot monitoring system.

c. Contents of each drop bucket shall be recorded on the count sheet in ink or other permanent form prior to commingling the funds with funds from other buckets. If a weigh scale interface is used, the slot drop figures are transferred via direct line to computer storage media.

d. The recorder and at least one other count team members shall sign the slot count document or weigh tape attesting to the accuracy of the initial weigh/count.

e. At least three employees who participate in the weigh/count and/or wrap process shall sign the slot count document.

f. The coins shall be wrapped and reconciled in a manner which precludes the commingling of slot drop coin with coin for each denomination from the next slot drop.

g. Transfers out of the count room during the slot count and wrap process are either strictly prohibited; or if transfers are permitted during the count and wrap, each transfer is recorded on a separate multi-part prenumbered form used solely for slot count transfers which is subsequently reconciled by the accounting department to ensure the accuracy of the reconciled wrapped slot drop. Transfers, as noted above, are counted and signed for by at least two members of the count team and by someone independent of the count team who is responsible for authorizing the transfer.

h. If the count room serves as a coin room and coin room inventory is not secured so as to preclude access by the count team, then the next two requirements shall be complied with.

i. At the commencement of the slot count;

(a) the coin room inventory shall be counted by at least two employees, one of whom shall be a member of

the count team and the other shall be independent of the weigh/count and wrap procedures.

(b) the above count shall be recorded on an appropriate inventory form.

ii. Upon completion of the wrap of the slot drop:

(a) at least two members of the count team independent from each other, shall count the ending coin room inventory;

(b) the above counts shall be recorded on a summary report(s) which evidences the calculation of the final wrap by subtracting the beginning inventory from the sum of the ending inventory and transfers in and out of the coin room;

(c) the same count team members who counted the ending coin room inventory shall compare the calculated wrap to the initial weigh/count, recording the comparison and noting any variances on the summary report;

(d) a member of the cage/vault department counts the ending coin room inventory by denomination. This count shall be reconciled to the beginning inventory, wrap, transfers and initial weigh/count on a timely basis by the cage/vault or other department independent of the slot department and the weigh/wrap procedures;

(e) at the conclusion of the reconciliation, at least two count/wrap team members and the verifying employee shall sign the summary report(s) attesting to its accuracy.

iii. If the count room is segregated from the coin room, or if the coin room is used as a count room and the coin room inventory is secured to preclude access by the count team, upon completion of the wrap of the slot drop:

(a) at least two members of the count/wrap team shall count the final wrapped slot drop independently from each other;

(b) the above counts shall be recorded on a summary report;

(c) the same count team members as discussed above (or the accounting department) shall compare the final wrap to the weigh/count recording the comparison and noting any variances on the summary report;

iv. a member of the cage/vault department shall count the wrapped slot drop by denomination and reconcile it to the weigh/count;

v. at the conclusion of the reconciliation, at least two count team members and the cage/vault employee shall sign the summary report attesting to its accuracy;

vi. the wrapped coins (exclusive of proper transfers) are transported to the cage, vault or coin vault after the reconciliation of the weigh/count to the wrap.

j. The count team shall compare the weigh/count to the wrap count daily. Variances of two percent or greater per denomination between the weigh/count and wrap shall be investigated by the accounting department on a daily basis. The results of such investigation shall be documented and maintained for five years.

k. All slot count and wrap documentation, including any applicable computer storage media, is immediately delivered to the accounting department by other than the cashier's department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

1. Corrections on slot count documentation shall be made by crossing out the error, entering the correct figure, and then obtaining the initials of at least two count team employees. If a weigh scale interface is used, corrections to slot count data shall be made using either of the following:

i. crossing out the error on the slot document, entering the correct figure, and then obtaining the initials of at least two count team employees. If this procedure is used, an employee independent of the slot department and count team enters the correct figure into the computer system prior to the generation of a related slot report(s);

ii. during the count process, correct the error in the computer system and enter the passwords of at least two count team employees. If this procedure is used, an exception report is generated by the computer system identifying the slot machine number, the error, the correction and the count team employees testifying to the corrections.

m. At least three employees are present throughout the wrapping of the slot drop. If the slot count is conducted with a continuous mechanical count meter which is not reset during the count and is verified in writing by at least three employees at the start and end of each denomination count, then this requirement is not applicable.

n. If the coins are not wrapped immediately after being weighed/counted, they are secured and not commingled with other coin. The term "wrapped slot drop" includes wrapped, bagged (with continuous metered verification), and racked coin/tokens.

o. If the coins are transported off the property, a second (alternative) count procedure must be performed before the coins leave the property, and any variances are documented.

L. Each hard count area shall be equipped with a weigh scale to weigh the contents of each slot drop bucket.

1. A weigh scale calibration module shall be secured so as to prevent unauthorized access and shall have the manufacturer's control to preserve the integrity of the device. Internal Audit shall test the accuracy of the weigh scale at a minimum of once per quarter and document the results of the test. The manufacturer shall calibrate the weigh scale at a minimum of once per year. Someone independent of the cage, vault, slot and count team functions shall be required to be present whenever the calibration module is accessed. Such access shall be documented and maintained. The controller or his designee shall be the only persons with access to the weigh calibration keys.

2. If a weigh scale interface is used, it shall be adequately restricted so as to prevent unauthorized access.

3. If the weigh scale has a zero adjustment mechanism, it shall be either physically limited to minor adjustments or physically situated such that any unnecessary adjustments to it during the weigh process would be observed by other count team members.

4. The weigh scale and weigh scale interface shall be tested by the internal auditors or someone else who is independent of the cage, vault and slot departments and count team at least on a quarterly basis with the test results being documented.

5. During the slot count at least two employees shall verify the accuracy of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated.

6. The preceding weigh scale and weigh scale interface test results shall be documented and maintained.

7. If a mechanical coin counter is used (instead of a weigh scale), procedures equivalent to those described in §2723 L.4 and §2723.L.5. shall be utilized.

M. Each licensed eligible facility shall maintain accurate and current records for each slot machine, including:

1. initial meter readings, both electronic and system , including coin in, coin out, drop, total jackpots paid, and games played for all machines. These readings shall be recorded prior to commencement of patron play for both new machines and machines changed in any manner other than changes in theoretical hold;

2. a report shall be produced at least monthly showing month-to-date and year-to-date actual hold percentage computations for individual machines and a comparison to each machine's theoretical hold percentage. If practicable, the report should include the actual hold percentage for the entire time the machine has been in operation. Actual hold equals dollar amount of win divided by dollar amount of coin in;

a. variances between theoretical hold and actual hold of greater than two percent shall be investigated, resolved and findings documented on an annual basis.

3. records for each machine which indicate the dates and type of changes made and the recalculation of theoretical hold as a result of the changes;

4. the date the machine was placed into service, the date the machine was removed from operation, the date the machine was placed back into operation, and any changes in machine numbers and designations;

5. system meter readings, recorded immediately prior to or subsequent to each slot drop. Electronic meter readings for coin-in, coin-out, drop and total jackpots paid shall be recorded at least once a month;

a. the employee who records the electronic meter reading shall be independent of the hard count team. Meter readings shall be randomly verified annually for all slot machines by someone other than the regular electronic meter reader;

b. upon receipt of the meter reading summary, the accounting department shall review all meter readings for reasonableness using pre-established parameters;

c. meter readings which do not appear reasonable shall be reviewed with slot department employees, and exceptions documented, so that meters can be repaired or clerical errors in the recording of meter readings can be corrected;

6. the statistical reports, which shall be reviewed by both slot department management and management employees independent of the slot department on a monthly basis;

7. theoretical hold worksheets, which shall be reviewed by both slot department management and management employees independent of the slot department semi-annually;

8. maintenance of the computerized slot monitoring system data files, which shall be performed by a department independent of the slot department. Alternatively, maintenance may be performed by slot supervisory employees if sufficient documentation is generated and it is

randomly verified by employees independent of the slot department on a daily basis;

9. updates to the computerized slot monitoring systems to reflect additions, deletions or movements of slot machines, which shall be made immediately preceding the addition or deletion in conjunction with electronic meter readings and the weigh process.

N. When slot machines are removed from the floor, slot loads, including hopper fills, shall be dropped in the slot drop bucket and routed to the coin room for inclusion in the next hard count.

O. Keys to a slot machine's drop bucket cabinet shall be maintained by a department independent of the slot department. The issuance of slot machine drop bucket cabinet keys shall be observed by security and a person independent of the slot drop team. Security shall accompany the key custodian and such keys and observe each time a slot machine drop cabinet is accessed unless surveillance is notified each time the keys are checked out and surveillance observes the person throughout the period the keys are checked out. Keys shall be logged out and logged in on a per shift basis. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The video tape of the log-in process shall be retained for thirty days.

P. Sensitive keys shall not be removed from the building in which the slot machines are housed. Access to the keys shall be documented on key access log forms.

1. The logs shall contain the date and time of issuance, the key or ring of keys issued, the printed name, signature and employee number of the person to whom the key is issued, the printed name, signature and employee number of the person issuing the key, the date and time of the key return and reason for access to the secure area. If key rings are used, there shall be a listing with the key log specifying each key on each ring. Accountability is required.

2. Keys shall be logged out and logged in per shift. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The video tape of the log-in process shall be retained for thirty days.

Q. Currency Acceptor Drop and Count Standards

1. Devices accepting U.S. currency for credit on, or change from, slot machines must provide a locked drop box whose contents are separately keyed from the drop bucket cabinet.

2. The currency acceptor drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the division, setting forth the specific times for such drops. Emergency drops, including those for maintenance and repairs which require removal of the currency acceptor drop box, require written notification to the division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor drop box, the drop team shall notify security and surveillance that the drop is beginning.

3. The currency acceptor drop process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured areas as approved by the division. At least one surveillance employee shall monitor the drop process at all times. This employee shall record on the surveillance log the time that the drop begins and ends, as well as any exceptions or variations to established procedures observed during the drop, including each time the count room door is opened.

4. Each licensed eligible facility shall submit its drop transportation route from the gaming area to the count room to the division prior to implementing or changing the route.

5. Drop team shall collect each currency acceptor drop box and ensure that the correct tag or number is added to each box.

6. Security shall be provided over the currency acceptor drop boxes removed from the electronic gaming devices prior to being transported to the count area.

7. Upon removal, the currency acceptor drop boxes shall be placed in a drop box storage rack and locked therein for transportation directly to the count area or other secure place approved by the division and locked in a secure manner until the count takes place.

8. The transporting of currency acceptor drop boxes shall be performed by a minimum of two employees, at least one of whom shall be a security officer.

9. Once all currency acceptor drop boxes are collected, the drop team or security shall notify surveillance and other appropriate personnel that the drop has ended.

10. The currency acceptor count shall be performed in the soft count room. At least one surveillance or internal audit employee shall monitor the currency acceptor count process at least two randomly selected days per calendar month and shall be videotaped by surveillance. This employee shall record any exceptions or variations to established procedures observed during the count. If at any time surveillance observes the visibility of count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees.

11. The currency acceptor count shall be performed by a minimum of three employees consisting of a recorder, counter and verifier.

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team shall not be the same three employees more than four days per week.

13. The currency acceptor count team shall be independent of transactions being reviewed and counted, and the subsequent accountability of currency drop proceeds.

14. Daily, the count team shall verify the accuracy of the currency counter by performing a test count. The test count shall be recorded and signed by at least two count team members.

15. The currency acceptor drop boxes shall be individually emptied and counted on the count room table.

16. As the contents of each box are counted and verified by the counting employees, the count shall be recorded on the count sheet in ink or other permanent form of recordation prior to commingling the funds with funds from other boxes.

17. Drop boxes, when empty, shall be shown to another member of the count team or to surveillance.

18. The count team shall compare a listing of currency acceptor drop boxes scheduled to be dropped to a listing of those drop boxes actually counted, to ensure that all drop boxes are accounted for during each drop period.

19. Corrections to information originally recorded by the count team on currency acceptor count documentation shall be made by crossing out the error, entering the correct figure, and then obtaining the initials of at least two count team members who verified the change.

20. After the count sheet has been reconciled to the currency, all members of the count team shall attest by signature to the accuracy of the currency acceptor drop count. Three verifying signatures on the count sheet shall be adequate if all additional count team employees sign a supplemental document evidencing their involvement in the count process.

21. All monies that were counted shall be turned over to the cage cashier (who shall be independent of the count team) or to an employee independent of the revenue generation and the count process for verification, who shall certify by signature as to the accuracy of the currency delivered and received.

22. Access to all drop boxes regardless of type, full or empty shall be restricted to authorized members of the drop and count teams.

23. Access to the soft count room and vault shall be restricted to members of the drop and count teams, agents of the division, authorized observers as approved by the division and supervisors for resolution of problems. Authorized maintenance personnel shall enter only when accompanied by security. A log shall be maintained in the soft count room and vault. The log shall contain the following information:

- a. name of each person entering the count room;
- b. reason each person entered the count room;
- c. date and time each person enters and exits the count room;
- d. date, time and type of any equipment malfunction in the count room; and
- e. a description of any unusual events occurring in the count room.

24. The count sheet, with all supporting documents, shall be promptly delivered to the accounting department by someone other than the cashiers department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

25. The physical custody of the keys needed for accessing full currency acceptor drop box contents shall be videotaped by surveillance at all times.

26. Currency acceptor drop box release keys are maintained by a department independent of the slot department. Only the employee authorized to remove drop boxes from the currency acceptor is allowed access to the release keys. The count team members may have access to the release keys during the count in order to reset the drop boxes if necessary. Employees authorized to drop the currency acceptor drop boxes are precluded from having access to drop box contents keys.

27. An employee independent of the slot department shall be required to accompany the currency acceptor drop box storage rack keys and observe each time drop boxes are removed from or placed in storage racks. Employees authorized to obtain drop box storage rack keys shall be precluded from having access to drop box contents keys with the exception of the count team.

28. Only count team members shall be allowed access to drop box contents keys. This standard does not affect emergency situations which require currency acceptor drop box access at other than scheduled count times. At least three employees from separate departments, including management, shall participate in these situations. The reason for access shall be documented with the signatures of all participants and observers.

29. The issuance of soft count room and other count keys, including but not limited to acceptor drop box contents keys, shall be witnessed by two gaming employees, who shall be from different departments. Neither of these two employees shall be members of the count team. Keys shall be logged out and logged in on a per shift basis. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The videotape of the log-in process shall be retained for 30 days.

30. Duplicate keys shall be maintained and issued in such a manner as to provide the same degree of control over drop boxes as is required for the original keys.

31. Sensitive keys shall not be removed from the facility unless to an extension of the facility as previously approved by the division and access to the keys shall be documented on key access log forms.

a. The logs shall contain the date and time of issuance, the key or ring of keys issued, the printed name, signature and employee number of the person to whom the key is issued, the printed name, signature and employee number of the person issuing the key, the date and time of the key return and reason for access to the secure area. If key rings are used, there shall be a listing with the key log specifying each key on each ring. Accountability is required.

b. Keys shall be logged out and logged in on a per shift basis. The employee who logs out the key shall be the employee who logs in the key. If a different employee logs in the key, surveillance shall be notified and surveillance shall monitor the entire log-in process including the return of the key to the key box. The video tape of the log-in process shall be retained for 30 days.

R. Computer Records. At a minimum, the licensed eligible facility shall generate, review, document review, and maintain slot reports on a daily basis for the respective system(s) utilized in their operation as prescribed by the division.

S. Management Information Systems (MIS) Functions

1. Backup and Recovery

a. MIS shall perform tape backup of system data daily. Backup and recovery procedures shall be written and distributed to all applicable personnel. These policies shall include information and procedures (e.g., a description of the system, systems manual, etc.) that ensure the timely

restoration of data in order to resume operations after a hardware or software failure.

b. MIS shall maintain either hard or disk copies of system generated edit reports, exception reports and transaction logs.

2. Software/Hardware

a. MIS shall maintain a personnel access listing which includes, at a minimum the employee's name, position, identification number, and a list of functions the employee is authorized to perform including the date authorization is granted. These files shall be updated as employees or the functions they perform change.

b. MIS shall print and review the computer security access report at the end of each month. Discrepancies shall be investigated, documented and maintained for five years.

c. Only authorized personnel shall have physical access to the computer software/hardware.

d. All changes to the system and the name of the individual who made the change shall be documented.

e. Reports and other output generated by the system shall only be available and distributed to authorized personnel.

3. Application Controls

a. Application controls shall include procedures that prove assurance of the accuracy of the data input, the integrity of the processing performed, and the verification and distribution of the output generated by the system. Examples of these controls include:

i. proper authorization prior to data input (e.g. passwords);

ii. use of parameters or reasonableness checks; and

iii. use of control totals on reports and comparison of them to amounts input.

b. Documents created from the above procedures shall be maintained for five years.

T. The accounting department shall perform the following audit procedures relative to slot operations:

1. collect jackpot and hopper fill slips (computerized and manual) daily from the locked Accounting box and the cashier cage or as otherwise approved by the division;

2. review jackpot/fill slips daily for continuous sequence. Ensure that proper procedures were used to void slips. Investigate all missing slips and errors within 10 days. Document the investigation and retain the results for a minimum of five years;

3. manually add, on a daily basis, all jackpot/fill slips and trace the totals from the slips to the system generated totals. Document all variances and retain documentation for five years;

4. collect the hard count and currency acceptor count results from the count teams and compare the actual count to the system-generated meter reports on a daily basis;

5. prepare reports of their daily comparisons by device, by denomination and in total of the actual count for hard and soft count to system-generated totals. Report variance(s) of \$100 or greater to the slot department for investigation. Maintain a copy of these reports five years;

6. compare a listing of slot machine numbers scheduled to be dropped to a listing of slot machine numbers actually counted to ensure that all drop buckets and currency acceptors are accounted for during each drop period;

7. investigate any variance of 2 percent or more per denomination between the weigh/count and wrap immediately. Document and maintain the results of such investigation for five years;

8. compare 10 percent of jackpot/hopper fill slips to signature cards for proper signatures one day each month;

9. compare the weigh tape to the system-generated weigh, as recorded in the slot statistical report, in total for at least one drop period per month. Resolve discrepancies prior to generation/distribution of slot reports to management;

10. review the weigh scale tape of one gaming day per quarter to ensure that:

a. all electronic gaming device numbers were properly included;

b. only valid identification numbers were accepted;

c. all errors were followed up and properly documented (if applicable);

d. the weigh scale correctly calculated the dollar value of coins; and

e. all discrepancies are documented and maintained for a minimum of five years;

11. verify the continuing accuracy of the coin-in meter readings as recorded in the slot statistical report at least monthly;

12. compare the "bill-in" meter reading to the currency acceptor drop amount at least monthly. Discrepancies shall be resolved prior to generation/distribution of slot statistical reports to management;

13. maintain a personnel access listing for all computerized slot systems which includes at a minimum:

a. employee name;

b. employee identification number (or equivalent); and

c. listing of functions employee can perform or equivalent means of identifying same;

14. review Sensitive Key Logs. Investigate and document any omissions and any instances in which these keys are not signed out and signed in by the same individual, on a monthly basis;

15. review exceptions, jackpot overrides, and verification reports for all computerized slot systems, including tokens, coins and currency acceptors, on a daily basis for propriety of transactions and unusual occurrences. These exception reports shall include the following:

a. cash variance which compares actual cash to metered cash by machine, by denomination and in total;

b. drop comparison which compares the drop meter to weigh scale by machine, by denomination and in total;

U. Slot Department Requirements

1. The slot booths, change banks, and change banks incorporated in beverage bars (bar banks) shall be counted down and reconciled each shift utilizing appropriate accountability documentation.

2. The wrapping of loose slot booth and cashier cage coin shall be performed at a time or location that does not interfere with the hard count/wrap process or the accountability of that process.

3. A record shall be maintained evidencing the transfers of unwrapped coin.

4. Slot booth, change bank, and bar bank token and chip storage cabinets/drawers shall be constructed to provide maximum security of the chips and tokens.

5. Each station shall have a separate lock and shall be keyed differently.

6. Slot booth, change bank, and bar bank cabinet/drawer keys shall be maintained by the supervisor and issued to the change employee assigned to sell chips and tokens. Issuance of these keys shall be evidenced by a key log, which shall be signed by the change employee to whom the key is issued. All slot booth, change bank, and bar bank keys shall be returned to the supervisor at the end of each shift. The return of these keys shall be evidenced on the key log, which shall be signed by the change employee to whom the key was previously issued. The key log shall include:

- a. the change employee's employee number and signature;
- b. the date and time the key is signed out; and
- c. the date and time the key is returned.

7. At the end of each shift, the outgoing and incoming change employee shall count the bank. The outgoing employee shall fill out a count sheet, which shall include opening and closing inventories listing all currency, coin, tokens, chips and other supporting documentation. The count sheet shall be signed by both employees once total closing inventory is agreed to the total opening inventory.

8. In the event there is no incoming change employee, the supervisor shall count and verify the closing inventory of the slot booth/change bank/bar bank.

9. Increases and decreases to the slot booths, change banks, and bar banks shall be supported by written documentation signed by the cage cashier and the slot booth/change bank/bar bank employee.

10. The Slot Department shall maintain documentation of system related problems (i.e. system failures, extreme values for no apparent reason, problem with data collection units, etc.) and note follow-up procedures performed. Documentation shall include at a minimum:

- a. date the problem was identified;
- b. description of the problem;
- c. name and position of person who identified the problem;
- d. name and position of person(s) performing the follow up;
- e. date the problem was corrected; and
- f. how the problem was corrected.

11. The Slot Department shall investigate all meter variances received from Accounting. Copies of these results shall be retained by the accounting department.

V. Progressive Slot Machines

1. Individual Progressive Slot Machine Controls.

a. Individual slot machines shall have seven meters, including a coin-in meter, drop meter, jackpot meter, win meter, manual jackpot meter, progressive manual jackpot meter and a progressive meter.

2. Link Progressive Slot Machine Controls

a. Each machine in the link group shall be the same denomination and have the same probability of hitting the combination that will award the progressive jackpot as every other machine in the group.

b. Each machine shall require the same number of tokens be inserted to entitle the player to a chance at winning the progressive jackpot and every token shall increment the meter by the same rate of progression as every other machine in the group.

c. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current progressive jackpot amount.

3. Each licensed eligible facility shall submit to the division detailed internal control procedures relative to progressive slot machines that incorporate the following, at a minimum:

- a. defined jackpots that are to be paid by the entity and those paid from contributions to the multi-link vendor;
- b. a schedule for the remittance of location contributions to the multi-link vendor;
- c. a defined time period for receipt of contribution reports from the multi-link vendor;
- d. contribution reports shall specifically identify the total amount of the licensed eligible facility's contributions that can be deducted from the gross drop reported to the division for progressive jackpot(s) that are hit during the reporting period. The licensed eligible facility's contributions shall not be reported to the division upon payout. Licensed eligible facility's shall take their deductions, which are specified on the primary and secondary contribution reports from the manufacturer, on the 15th of every month for the previous month's jackpots;
- e. detailed jackpot payout procedures for all types of jackpots;
- f. service and maintenance parameters as set forth in contractual agreements between the licensed eligible facility and the multi-link vendor.

W. Training

1. All personnel responsible for slot machine operation and related computer functions shall be adequately trained in a manner approved by the division before they shall be allowed to perform maintenance or computerized functions.

2. The training shall be documented by requiring personnel to sign a roster during the training session(s).

3. Each licensed eligible facility shall have a designated instructor responsible for training additional personnel during the interim period between training by the manufacturer. The designated instructor shall meet the following requirements:

- a. shall be a full-time employee of the licensed eligible facility; and
- b. shall be certified as an instructor by the manufacturer and/or a licensed eligible facility's representative.

4. The licensed eligible facility shall have a continuing obligation to secure additional training whenever necessary to ensure that all new employees receive adequate training before they are allowed to conduct maintenance or computerized functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:751 (April 2000).

§2725. Reserved

§2727. Reserved

§2729. Internal Controls; Cage, Vault and Credit

A. Each licensed eligible facility shall have a main bank which will serve as the financial consolidation of transactions relating to all gaming activity. Individuals accessing cages who are not employees assigned to cage areas shall sign a log maintained in each of these areas:

1. name of each person entering the cage;
2. reason each person entered the cage;
3. date and time each person enters and exits the cage;
4. date, time and type of any equipment malfunction

in the cage; and

5. a description of any unusual events occurring in the cage.

B. All transactions that flow through the cage shall be summarized on a cage accountability form on a per shift basis and signed by the off-going and on-coming cashier. Variances, of \$50 or greater shall be investigated and the results maintained for five years.

C. Increases and decreases to the cage inventory shall be supported by written documentation.

D. Open cage windows and vault including the coin room inventories shall be counted by outgoing and incoming cashiers and recorded at the end of each shift during which any activity took place, or at least once per gaming day. This documentation shall be signed by each person who counted the inventory. In the event there is a variance which cannot be resolved, a supervisor shall verify/sign the documentation.

E. All net changes in outstanding receivables shall be summarized on a cage accountability form or similar document on a daily basis.

F. Such information shall be summarized and posted to the accounting records at least monthly.

G. All cage paperwork shall be transported to accounting by an employee independent of the cage.

H. All cashier tips shall be placed in a transparent locked box located inside the cage and shall not be commingled with cage inventory.

I. A licensed eligible facility shall be permitted to issue credit in its gaming operation.

J. Prior to the issuance of gaming credit to a player, the employee extending the credit shall determine if credit is available by entering the patron's name or account number into the computer. A password shall be used to access such information. Once availability is established, credit shall be extended only to the balance. If a manual system is used, the employee extending the credit shall, prior to the issuance of gaming credit to a player, contact the cashier or other independent source to determine if the player's credit limit has been properly established and remaining credit available is sufficient for the advance.

K. Proper authorization of credit extension in excess of the previously established limit shall be documented.

L. Each licensed eligible facility shall document, prior to extending credit, that it:

1. received information from a bona fide credit-reporting agency that the patron has an established credit history that is not entirely derogatory; or

2. received information from a legal business that has extended credit to the patron that the patron has an established credit history that is not entirely derogatory; or

3. received information from a financial institution at which the patron maintains an account that the patron has an established credit history that is not entirely derogatory; or

4. examined records of its previous credit transactions with the patron showing that the patron has paid substantially all of his credit instruments and otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or

5. informed by another licensed eligible facility that extended gaming credit to the patron that the patron has previously paid substantially all of the debt to the other licensed eligible facility and the licensed eligible facility otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or

6. if no credit information is available from any of the sources listed in Paragraphs 1 through 5 for a patron who is not a resident of the United States, the licensed eligible facility shall receive in writing, information from an agent or employee of the licensed eligible facility who has personal knowledge of the patron's credit reputation or financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal;

7. In the case of personal checks, examine and record the patron's valid driver's license or, if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks, and document one of the credit checks set forth in Paragraphs 1 through 6.

M. In the case of third party checks for which cash or tokens have been issued to the patron or which were accepted in payment of another credit instrument, the licensed eligible facility shall examine and record the patron's valid driver's license, or if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks and, for the check's maker or drawer, perform and document one of the credit procedures set forth in Subsection L.

N. The following information shall be recorded for patrons who will have credit limits or are issued credit in an amount greater than \$1,000 excluding, cashier's checks and traveler's checks:

1. patron's name, current address, and signature;
2. identification verifications, including social security number or passport number if patron is a nonresident alien;
3. authorized credit limit;
4. documentation of authorization by an individual designated by management to approve credit limits;
5. credit issuances and payments.

O. Prior to extending credit, the patron's credit application, and/or other documentation shall be examined to determine the following:

1. properly authorized credit limit;
2. whether remaining credit is sufficient to cover the advance;
3. identity of the patron;
4. credit extensions over a specified dollar amount shall be authorized by personnel designated by management;

5. proper authorization of credit extension over ten percent of the previously established limit or \$1,000, whichever is greater shall be documented;

6. if cage credit is extended to a single patron in an amount exceeding \$2,500, applicable gaming personnel shall be notified on a timely basis of the patrons playing on cage credit, the applicable amount of credit issued, and the available balance.

P. The following information shall be maintained either manually or in the computer system for cage-issued markers:

1. the signature or initials of the individual(s) approving the extension of credit (unless such information is contained elsewhere for each issuance);

2. the name of the individual receiving the credit;

3. the date and shift granting the credit;

4. the amount of credit issued;

5. the marker number;

6. the amount of credit remaining after each issuance or the total credit available for all issuances;

7. the amount of payment received and nature of settlement (e.g., credit slip number, cash, chips, etc.); and

8. the signature or initials of the individual receiving payment/settlement.

Q. The marker slip shall, at a minimum, be in triplicate form, pre-numbered by the printer, and utilized in numerical sequence whether marker forms are manual or computer-generated. Manual markers may be issued in numerical sequence by location. The three parts shall be utilized as follows:

1. original - maintained in the cage until settled;

2. payment slip - maintained until the marker is paid;

3. issue slip - maintained in the cage, until forwarded to accounting.

R. The original marker shall contain at least the following information:

1. patron's name and signature;

2. preprinted number;

3. date of issuance;

4. amount of credit issued; and

S. The issue slip or stub shall include the same preprinted number as the original, date and time of issuance, and amount of credit issued. The issue slip or stub also shall include the signature of the individual issuing the credit, unless this information is included on another document verifying the issued marker.

T. The payment slip shall include the same preprinted number as the original. When the marker is paid in full, it shall also include, date and time of payment, nature of settlement (cash, tokens, etc.) and amount of payment. The payment slip shall also include the signature of the cashier receiving the payment, unless this information is included on another document verifying the payment of the marker.

U. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of patron, date marker issued, date paid, method of payment (if combination, i.e. chips/cash, amount paid by each method), and amount of credit remaining. This marker log documentation shall also be maintained by patron name in alphabetic sequence in order to determine that credit was not extended beyond 30 days.

V. Markers (computer-generated and manual) that are voided shall be clearly marked "void" across the face of all

copies. The cashier and supervisor shall print their employee numbers and sign their names on the voided marker. The supervisor who approves the void shall print or stamp the date and time the void is approved. A brief statement of why the void was necessary shall be written on the face of all copies. All copies of the voided marker shall be forwarded to accounting for accountability and retention on a daily basis.

W. All portions of markers, both issued and unissued, shall be safeguarded and procedures shall be employed to control the distribution, use and access to the forms.

X. An investigation shall be performed, by the accounting department, immediately following its notice of missing forms or any part thereof, to determine the cause and responsibility for loss whenever marker credit slips, or any part thereof, are missing, and the result of the investigation shall be documented, by the accounting department. The division shall be notified in writing of the loss, disappearance or failure to account for marker forms within ten days of such occurrence.

Y. All payments received on outstanding credit instruments shall be permanently recorded on the licensed eligible facility's records.

Z. When partial payments are made on a marker, a new marker shall be completed reflecting the original date, remaining balance, and number of the originally issued marker.

AA. Personal checks or cashier's checks shall be cashed at the cage cashier and subjected to the following procedures:

1. examine and record at least one item of patron identification such as a driver's license, etc;

BB. When travelers checks are presented:

1. the cashier must comply with examination and documentation procedures as required by the issuer;

2. checks in excess of \$100 shall not be cashed unless the requirements of Section 2729 AA. are met.

CC. The routing procedures for payments by mail require that they shall be received by a department independent of credit instrument custody and collection.

DD. Receipts by mail shall be documented on a listing indicating the following:

1. customer's name;

2. amount of payment;

3. type of payment if other than a check;

4. date payment received; and

5. the total amount of the listing of mail receipts shall be reconciled with the total mail receipts recorded on the appropriate accountability by the accounting department on a random basis for at least three days per month.

EE. Access to the credit information shall be restricted to those positions which require access and are so authorized by management. This access shall be noted in the appropriate job descriptions pursuant to Section 2715 B.2.

FF. Access to outstanding credit instruments shall be restricted to persons authorized by management and shall be noted in the appropriate job descriptions pursuant to §2715.B.2.

GG. Access to written-off credit instruments shall further be restricted to individuals specified by management and shall be noted in the appropriate job descriptions pursuant to Section 2715. B. 2.

HH. All extensions of pit credit transferred to the cage and subsequent payments shall be documented on a credit instrument control form.

II. Records of all correspondence, transfers to and from outside agencies, and other documents related to issued credit instruments shall be maintained.

JJ. Written-off credit instruments shall be authorized in writing. Such authorizations are made by at least two management officials which must be from a department independent of the credit transaction.

KK. If outstanding credit instruments are transferred to outside offices, collection agencies or other collection representatives, a copy of the credit instrument and a receipt from the collection representative shall be obtained and maintained until such time as the credit instrument is returned or payment is received. A detailed listing shall be maintained to document all outstanding credit instruments which have been transferred to other offices. The listing shall be prepared or reviewed by an individual independent of credit transactions and collections thereon.

LL. The receipt or disbursement of front money or a customer cash deposit shall be evidenced by at least a two-part document with one copy going to the customer and one copy remaining in the cage file.

1. The multi-part form shall contain the following information:

- a. same preprinted number on all copies;
- b. customer's name and signature;
- c. date of receipt and disbursement;
- d. dollar amount of deposit;
- e. type of deposit (cash, check, chips).

2. Procedures shall be established to:

- a. maintain a detailed record by patron name and date of all funds on deposit;
- b. maintain a current balance of all customer cash deposits which are in the cage/vault inventory or accountability;
- c. reconcile this current balance with the deposits and withdrawals at least daily.

MM. The trial balance of accounts receivable shall be reconciled to the general ledger at least quarterly.

NN. An employee independent of the cage, credit, and collection functions shall perform all of the following at least three times per year:

1. ascertain compliance with credit limits and other established credit issuance procedures;
2. randomly reconcile outstanding balances of both active and inactive accounts on the listing to individual credit records and physical instruments;
3. examine credit records to determine that appropriate collection efforts are being made and payments are being properly recorded;
4. for a minimum of five days per month partial payment receipts shall be subsequently reconciled to the total payments recorded by the cage for the day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:759 (April 2000).

§2730. Exchange of Tokens

A. A licensed eligible facility may exchange a patron's tokens issued by another licensed eligible facility or

riverboat licensee only for its own tokens. A licensed eligible facility shall not exchange tokens issued by another licensed eligible facility or riverboat licensee for cash. A licensed eligible facility shall document the exchange in a manner approved by the division.

B. The exchange shall occur at a single cage designated by the licensed eligible facility in its internal controls and approved by the division.

C. The total dollar value of the tokens submitted by a patron for exchange shall equal the total dollar value of the tokens issued by the licensed eligible facility to the patron. Tokens shall not be exchanged for a discount or a premium.

D. All tokens received by a licensed eligible facility as a result of an exchange authorized by this Section shall be returned to the issuing licensed eligible facility or riverboat licensee for redemption within thirty days of the date the tokens were received as part of an exchange unless the division approves otherwise in writing. Both licensed eligible facilities and riverboat licensees shall document the redemption in a manner approved by the division.

E. A licensed eligible facility shall not accept tokens issued by another licensed eligible facility or riverboat licensee in any manner other than authorized in this Section. A licensed eligible facility shall not knowingly accept as a wager any token issued by another licensed eligible facility or riverboat licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:761 (April 2000).

§2731. Currency Transaction Reporting

A. Each licensed eligible facility shall be responsible for proper reporting of certain monetary transactions to the federal government as required by the Bank Records and Foreign Transactions Act (Public Law 91-508), commonly referred to as the "Bank Secrecy Act" as codified in Title 31 §§5311-5323, and Title 12, §§1730(d), 1829, and 1951-1959. Specific requirements concerning record keeping and reports are delineated in Title 31 CFR 103 and shall be followed in the entirety. The "Bank Secrecy Act" and the rules and regulations promulgated by the federal government pursuant to the "Bank Secrecy Act" as they may be amended from time to time, are adopted by reference and are to be considered incorporated herein.

B. Civil and/or criminal penalties may be assessed by the federal government for willful violations of the reporting requirements of the Bank Secrecy Act. These penalties may be assessed against the licensed eligible facility, as well as any director, partner, official or employee that participated in the above referenced violations.

C. All employees of the licensed eligible facility shall be prohibited from providing any information or assistance to patrons in an effort to aid the patron in circumventing any, and all currency transaction reporting requirements.

D. Licensed eligible facility employees shall be responsible for preventing a patron from circumventing the currency transaction reporting requirements if the employee has knowledge, or through reasonable diligence in performing their duties, should have knowledge of the patron's efforts at circumvention.

E. For each required Currency Transaction Report, a clear surveillance photograph of the patron shall be taken

and attached to the licensed eligible facility's copy of the Currency Transaction Report. The employee consummating the transaction shall be responsible for contacting the surveillance department employee. If a clear photograph cannot be taken at the time of the transaction, a file photograph of the patron if available may be used to supplement the required photograph taken. The licensed eligible facility shall maintain and make available for inspection all copies of Currency Transaction Reports, with the attached photographs, for a period of 5 years.

F. One legible copy of all Currency Transaction Reports for Casinos filed with the Internal Revenue Service shall be forwarded to the division's audit section by the 15th day after the date of the transaction.

G. The licensed eligible facility shall be responsible for maintaining a single log which aggregates all transactions in excess of \$2,500 from the various multiple transaction logs as follows.

1. All cash transactions in excess of \$2,500 shall be recorded on a multiple transaction log for aggregation of the multiple transactions and signed by the employee handling the transaction. Records of the aforementioned transactions must be aggregated on the single log required by this Section.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name and physical description of the patron.

4. Once any patron's cash activity has exceeded \$2,500, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the cage shall ensure all cash transactions in excess of \$2,500 are properly logged and aggregated.

6. Personnel of the cage shall ensure any required Currency Transaction Reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

H. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

I. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until such time that the required information is provided.

J. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:761 (April 2000).

§2735. Net Slot Machine Proceeds Computation

A. For each slot machine, net slot machine proceeds shall equal drops less fills to the machine and jackpot payouts, plus or minus the token float adjustment. The first step in the calculation of the token float adjustment shall be the daily token float calculation which shall be the total tokens received to date (i.e., the initial tokens received from vendors plus all subsequent shipments of tokens received) less the total day's token count (i.e., tokens in the hard count room plus tokens in the vault, cage drawers, change lockers, tokens in other locations and initial tokens in hoppers). The daily ending inventory token count shall at no time exceed the total amount of tokens in the total licensed eligible facility token accountability. Foreign tokens and slugs do not constitute a part of token inventory. If at any time the calculated daily token float is less than zero, the licensed eligible facility shall adjust to reflect a zero current day token float. The initial hopper load is not a fill and does not affect gross revenue. Since actual hopper token counts from all machines are not feasible, estimates of the token float adjustment shall be done daily based on the assumption that the hoppers will maintain the same balance as the initial hopper fill. Once a year, a statistical sample of the hoppers will be inventoried for the purpose of calculating the token float. This should be performed during the annual audit so that the external auditors can observe the test performance results. Therefore, once per year, the token float adjustment shall be based upon a physical count of tokens.

B. If in any day the amount of net slot machine proceeds is less than zero, the licensed eligible facility may deduct the excess in the succeeding days, until the loss is fully offset against net slot machine proceeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:762 (April 2000).

§2736. Reserved

§2737. Reserved

§2739. Extension of Time for Reporting

A. The division in its sole and absolute discretion, may extend the time for filing any report or document required by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:762 (April 2000).

§2741. Petitions for Redetermination; Procedures

A. A licensed eligible facility filing a petition for redetermination with the board shall serve a copy of the petition on the division.

B. A licensed eligible facility shall, within thirty days after the petition is filed:

1. pay all taxes, penalties, or interest not disputed in the petition and submit a schedule to the division that contains its calculation of the interest due on nondisputed assessments;

2. file with the board a memorandum of points and authorities in support of a redetermination, and serve a copy of the memorandum on the division;

3. file with the board a certification that it has complied with the requirements of Paragraphs 1 and 2.

C. The division shall, within 30 days after service of the licensed eligible facility's memorandum, file a memorandum of points and authorities in opposition to the licensed eligible facility's petition and shall serve a copy on the licensed eligible facility. The licensed eligible facility may, within 15 days after service of the division's memorandum, file a reply memorandum.

D. The division and the licensed eligible facility may stipulate to extend the time periods specified in this Section if their stipulation to that effect is filed with the board before the expiration of the pertinent time period. The board chairman may extend the time periods specified in this Section upon motion and for good cause shown.

E. The board may, at its discretion, deny a petition for determination if the licensed eligible facility fails to comply with the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:762 (April 2000).

§2743. Claims for Refunds; Procedures

A. A licensed eligible facility filing a claim for refund with the board shall serve a copy of the claim on the division.

B. A licensed eligible facility shall, within 30 days after the claim is filed, file with the board a memorandum of points and authorities in support of the claim, setting forth the legal basis and the licensed eligible facility's calculations of the amount of the refund and any interest due thereon, and serve a copy of the memorandum on the division, and file with the board a certification that it has complied with the requirements of this Subsection.

C. The division shall, within 30 days after service of the licensed eligible facility's memorandum, file a memorandum of points and authorities in opposition to the licensed eligible facility's claim and shall serve a copy on the licensed eligible facility. The licensed eligible facility may, within fifteen days after service of the division's memorandum, file a reply memorandum.

D. The division and the licensed eligible facility may stipulate to extend the time periods specified in this Section if their stipulation to that effect is filed with the board before the expiration of the pertinent time period. The board chairman may extend the time periods specified in this Section upon motion and for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:763 (April 2000).

§2744. Reserved

§2745. Reserved

Chapter 29. Operating Standards

§2901. Methods of Operation Generally

A. It is the policy of the board to require that all eligible facilities wherein gaming is conducted be operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the state of Louisiana and in a manner that will foster and promote

economic development and growth of the tourism industry within the state of Louisiana.

B. Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee and willful or persistent use or toleration of methods of operation deemed unsuitable is grounds for disciplinary action.

C. The board may deem any activity on the part of a licensee, permittee, his agents or employees that is inimical to the public health, safety, morals, good order and general welfare of the people of the state of Louisiana or that would reflect or tend to reflect discredit upon the state of Louisiana or the tourism industry to be an unsuitable method of operation and grounds for disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:763 (April 2000).

§2903. Compliance with Laws

Acceptance of a license or permit or renewal thereof constitutes an agreement on the part of the licensee or permittee to be bound by all of the applicable provisions of the act and the regulations. It is the responsibility of the licensee or permittee to keep informed of the content of all such laws, and ignorance thereof will not excuse violations. Violation of any applicable provision of the act, the regulations of the commission or regulations of the board or division by a licensee or permittee or by the agent, employee or representative of a licensee or permittee is contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the state of Louisiana and constitutes grounds for enforcement action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:763 (April 2000).

§2905. Weapons in the Designated Gaming Area

Weapons as defined in the Louisiana Criminal Code are not permitted in the designated gaming area other than those in the possession of full-time commissioned law enforcement officers who are on duty and within their respective jurisdiction and licensed gaming security personnel who are on duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:763 (April 2000).

§2907. Reserved

§2909. Reserved

§2911. Accessibility to Premises; Parking

A. Each licensee shall provide adequate parking to accommodate three full size vehicles for exclusive use by division agents. Parking shall be in close proximity to the division office or the designated gaming area. The location of the parking spaces shall meet division specifications and approval.

B. Each licensee shall ensure that division agents are provided an expedient means for entry and departure in regard to access to premises. For the purpose of this Section, premises includes but is not limited to private roads, parking lots, buildings, vessels, structures, and land which the

licensee owns, leases or uses in relationship to the eligible facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:763 (April 2000).

§2913. Access to Premises and Production of Records

A licensee shall upon request immediately make available for inspection by the board and division or the agents thereof, all papers, books and records used in the licensed or permitted operation. The division, or any agent of the division shall be given immediate access to any portion of the premises of any eligible facility or premises of a manufacturer, distributor or supplier for the purpose of inspecting or examining any records or documents required to be kept under the provisions of the act and the regulations and any gaming device or equipment or the conduct of any gaming activity. Immediate access to the areas and records that may be inspected or examined by the division or division agents must be granted to any such individual who displays division credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:764 (April 2000).

§2915. Methods to Prevent Minors from Gaming Area

A. The Type A licensee must implement methods to prevent minors from entering the designated gaming area of the eligible facility. Such methods shall be part of the licensee's system of internal controls and shall include, but shall not be limited to the following:

1. Posting signs at all entrances to the gaming area notifying patrons that persons under twenty-one years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese.

2. Posting signs or other approved means displaying the date of birth of a person who is 21 years old that date.

B. No licensee, or any agent or employee thereof, shall intentionally allow a person under the age of 21 to play or operate a slot machine.

C. Licensees shall each quarter report and remit to the division all winnings withheld from customers who are determined to be under the age of 21.

D. The license of any person issued pursuant to the provisions of the act, who is found by the board to have committed or allowed a violation of Subsection B, shall be revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:764 (April 2000).

§2917. Reserved

§2919. Finder's Fees

A. Except as limited by Subsection B, the term "finder's fee" means any compensation in money in excess of the sum of \$5,000 annually, or real or personal property valued in excess of the sum of \$5,000 annually, which is paid or transferred or agreed to be paid or transferred to any person

in consideration for the arranging or negotiation of an extension of credit to a licensee, a registered company, or applicant for licensing or registration if the proceeds of such extension of credit are intended to be used for any of the following purposes:

1. the acquisition of an interest in an eligible facility or registered company;

2. to finance the gaming operations of an eligible facility, license or registered company.

B. The term "finder's fees" shall not include:

1. compensation to the person who extends the credit;

2. normal and customary payments to employees of the person to whom the credit is extended if the arranging or negotiation of credit is part of their normal duties;

3. underwriting discounts paid to a member of the National Association of Securities Dealers, Inc.

C. It is an unsuitable method of operation or practice for any licensee, registered company or applicant for licensing or registration to pay a finder's fee without the prior approval of the division. An application for approval of payment of a finder's fee shall make a full disclosure of all material facts. The division may disapprove any such application if the person to whom the finder's fee is proposed to be paid does not demonstrate that he is suitable to hold a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:764 (April 2000).

§2921. Collection of Gaming Credit

A. Only bonded, duly licensed collection agencies, or a licensee's employees, independent agent, attorneys, or affiliated or wholly-owned corporation and their employees may collect, on the licensee's behalf and for any consideration, gaming credit extended by the licensee.

B. Notwithstanding the provisions of Subsection A, no licensee shall permit any person who has been found unsuitable, or who has been denied a gaming license or permit, or who has had a permit revoked, to collect, on the licensee's behalf and for any consideration, gaming credit extended by the licensee.

C. Each licensee shall maintain for the division's inspection, records that describe credit collection arrangements and shall include any written contract entered into with persons described in Subsection A, unless such persons are the licensee's key employees or junket representatives duly registered and approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:764 (April 2000).

§2923. Identification Card Issuance Equipment

The Type A licensee shall be required to furnish and maintain all necessary equipment for the production and issuance of gaming employee identification badges. The equipment and design of the gaming employee badge(s) shall be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:764 (April 2000).

§2925. Junkets and Related Activities

The board may require registration and provide a procedure and forms for the regulation of junkets and for the licensing of junket representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:765 (April 2000).

§2927. Advertising

The board may establish procedures for the regulation of advertising of licensed gaming activities. More specifically the board may require a licensee to advertise or publish specified information, slogans and telephone numbers relating to avoidance and treatment of compulsive or problem gambling or gaming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:765 (April 2000).

§2929. Conservatorship

A. Definitions. The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise.

Conservator a fiduciary appointed by the board concerning conservatorship.

Conservatorship Action an action brought pursuant to the board's appointing of a conservator.

Creditor the holder of any claim, of whatever character, against a person, whether secured or unsecured, matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

Debt any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

Encumbrance a mortgage, security interest, lien or charge of any nature in or upon property.

License any license issued pursuant to this act which authorizes the holder thereof to own or operate an eligible facility.

Property real property, tangible and intangible personal property, and rights, claims and franchises of every nature.

Transfer the sale and every other method, direct or indirect, of disposing of or parting with property or with an interest therein, or with the possession thereof, or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, payment, pledge, mortgage, lien, encumbrance, gift, security or otherwise; the retention of a security interest in property delivered to a corporation shall be deemed a transfer suffered by such corporation.

B. Institution of Conservatorship and Appointment of Conservators. Upon the suspension or revocation of a gaming license the board may appoint and constitute a conservator to, among other things, take over and into his possession and control all the property and business of the licensee relating to slot machine gaming at the licensed eligible facility.

1. Notwithstanding the foregoing, no conservator shall be constituted and appointed in any instance in which the for

which the license has been issued has not been, in fact, in operation and open to the public.

2. The board may proceed in a conservatorship action in a summary manner or otherwise and shall have the power to appoint and remove one or more conservators.

C. Qualification of Conservator. No person shall be appointed as a conservator unless the board is satisfied that he is individually qualified according to the standard applicable to key employees, except that casino experience shall not be necessary for qualification.

The board shall investigate and report to the commission with regard to the qualifications of each person who is proposed as a candidate to serve as a conservator.

D. Bonding of Conservators. Every conservator shall, before assuming his duties, execute and file a bond for the faithful performance of his duties payable to the "Louisiana Gaming Control Board" in the Office of the Attorney General, with such surety or sureties and in such form as the board shall approve and in such amount as the board shall prescribe.

E. Powers of Multiple Conservators. When more than one conservator is appointed, the provisions of this Subchapter applicable to one conservator shall be applicable to all and the debts and property of the former or suspended licensee may be collected and received by any of them and the powers and rights conferred upon them shall be exercised by a majority of them.

F. Powers and Jurisdiction of the Board. At the time of the commencement of a conservatorship action, or at any time thereafter, the board shall have the power to enjoin the former or suspended licensee from exercising any of its privileges and franchises, from collecting or receiving any debts and from paying out, selling, assigning or transferring any of its property to other than a conservator, except as the board may otherwise order.

1. A conservator shall at all times be subject to the act and such regulations, limitations, restrictions, terms and conditions as the board may from time to time prescribe.

2. The board shall have such further powers as shall be appropriate for the fulfillment of the purposes of the act.

G. Effect of the Conservatorship on Licensees. Except as may be otherwise provided, during the period of conservatorship the operation in the form of the conservatorship shall be deemed a licensed operation and any reference in the act or regulations to any obligations or responsibilities incumbent upon a licensee or those persons dealing with, affiliated with, having an interest in, employed by a licensee shall be deemed to apply to said operation.

H. Powers, Authorities and Duties of Conservators

1. Upon his appointment, the conservator shall become vested with the title of all the property of the former or suspended licensee or permittee relating to the licensed eligible facility, subject to any and all valid liens, claims, and encumbrances.

2. The conservator shall have the duty to conserve and preserve the assets so acquired to the end that such assets shall continue to be operated on a sound and businesslike basis.

3. Subject to the general supervision of the board and pursuant to any specific order it may deem appropriate, a conservator shall have power to:

a. take into his possession all the property of the former or suspended licensee relating to the, including its books, records and papers;

b. institute and defend actions by or on behalf of the former or suspended licensee;

c. settle or compromise with any debtor or creditor of the former or suspended licensee, including any taxing authority;

d. continue the business of the former or suspended licensee or permittee and to that end enter into contracts, borrow money and pledge, mortgage or otherwise encumber the property of the former or suspended licensee as security for the repayment of the conservator's loans; provided, however, that such power shall be subject to any provisions and restrictions in any existing credit documents;

e. hire, fire and discipline employees;

f. review all outstanding agreements to which the former or suspended licensee is a party and advise the board as to which, if any, of such agreements should be the subject of scrutiny, examination or investigation by the board; and

g. do all further acts as shall best fulfill the purposes of the act.

4. Except during the pendency of a suspension or during the pendency of an appeal from any action or event which precipitated the conservatorship or in instances in which the board finds that the interests of justice so require, the conservator, subject to the prior approval of and in accordance with such terms and conditions as may be prescribed by the board, and after appropriate prior consultation with the former licensee or permittee as to the reasonableness of such terms and conditions, shall endeavor to and be authorized to sell, assign, convey or otherwise dispose of in bulk, subject to any and all valid liens, claims, and encumbrances, all the property of a former licensee relating to the only upon written notice of all creditors and other parties in interest and only to such persons who shall be eligible to apply for and shall qualify as a licensee in accordance with the provisions of the act.

a. Prior to any such sale, the former licensee shall be granted, upon request, a summary review by the board of such proposed sale.

b. As an incident of its prior approval pursuant to this Subsection of the sale, assignment, conveyance or other disposition in bulk of all property of the former licensee relating to the eligible facility, the board may, in its discretion, require that the purchaser thereof assume in a form and substance acceptable to the board all of the outstanding debts of the former licensee that arose from or were based upon the operation of the eligible facility.

5. The board may require that the conservator, for an indefinite period of time, retain the property and continue the business of the former or suspended licensee relating to the eligible facility. During such period of time or any period of operation by the conservator, he shall pay when due, without in any way being personally liable, all secured obligations and shall not be immune from foreclosure or other legal proceedings to collect the secured debt, nor with respect thereto shall such conservator have any legal rights, claims, or defenses other than those which would have been available to the former or suspended licensee.

I. Compensation of Conservators and Others. In any conservatorship action, the board shall allow a reasonable

compensation for the services, costs and expenses of the conservator, the attorney for the conservator, the appraiser, the auctioneer, the accountant and such other persons as the board may appoint in connection with the conservatorship action.

J. Required Reports of the Conservator. A conservator shall file with the board such reports with regard to the administration of the conservatorship in such form and at such intervals as the board may prescribe.

1. The reports of the conservator to the board pursuant to this Subsection shall be available for examination and inspection by any creditor or party in interest.

2. The board may direct that copies of any such reports of a conservator to the board pursuant to this Subsection be mailed to such creditors or other parties in interest as it may designate and that summaries of any such reports be published in such newspapers of general circulation as it may designate.

K. Review of Action of Conservator. Any creditor or party in interest aggrieved by any alleged breach of a fiduciary obligation of a conservator in the discharge of his duties shall be entitled to a review thereof upon petitioning the board in writing. Such petition shall set forth in detail the pertinent facts and the reasons why such facts constitute the alleged breach. The board shall summarily review any petition filed pursuant to this Subsection and take whatever action, if any, that it deems appropriate.

L. Payment of Net Earnings During the Period of Conservatorship. No payment of net earnings during the period of conservatorship may be made by the conservator without the prior approval of the board.

1. The board may, in its discretion, direct that all or any part of net earnings during the period of conservatorship be paid either to the suspended or former licensee or to the Enforcement Fund.

2. Subject to Subsection D of this Section the board shall direct the payment of net earnings, or any portion thereof, to the Enforcement Fund unless the board determines that the policies of the act and public confidence in the integrity of legalized gaming operations would not be eroded by the payment of such net earnings to the former or suspended licensee.

3. Notwithstanding any other provisions of this Section, the former or suspended licensee shall be entitled to a fair rate of return out of net earnings, if any, during the period of conservatorship on the property retained by the conservator, taking into consideration that which amounts to a fair rate of return in the industry.

M. Payments Following a Bulk Sale. Following any sale, assignment, conveyance or other disposition in bulk of all the property subject to the conservatorship, the net proceeds therefrom, if any, after payment of all obligations owing to the state of Louisiana and political subdivisions thereof and of those allowances set forth in the act, shall be paid by the conservator to the former or suspended licensee.

N. Discontinuation of Conservatorship. The board shall direct the discontinuation of any conservatorship action when the conservator has, pursuant to the act and with the prior approval of the board, consummated the sale, assignment, conveyance or other disposition in bulk of all the property of the former licensee relating to the licensed eligible facility.

1. The board may direct the discontinuance of a conservatorship action when it determines that for any reason the cause for which the action was instituted no longer exists.

2. Upon the discontinuation of the conservatorship action and with the approval of the board, the conservator shall take such steps as may be necessary in order to effect an orderly transfer of the property of the former or suspended licensee.

3. The sale, assignment, transfer, pledge or other disposition of the securities issued by a former or suspended licensee during the pendency of a conservatorship action shall neither divest, have the effect of divesting, nor otherwise affect the powers conferred upon a conservator by the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:765 (April 2000).

§2931. Assisting in Violations

No employee, agent or representative of a licensee or permittee shall intentionally assist another person in violating any provision of the act, these rules or a licensee's approved system of internal control procedures. Such assistance shall constitute a violation of these rules. It is incumbent upon a licensee, permittee, employee, agent or representative of a licensee to promptly notify the board of any possible violation of the act, these rules adopted pursuant to the act, the licensee's internal controls or any order of the board or division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:767 (April 2000).

§2933. Compulsive or Problem Gamblers-Telephone Information and Referral Service-Posting

The Type A licensee shall post one or more signs at points of entry to the designated gaming areas to inform customers of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:767 (April 2000).

§2935. Entertainment Activities

A. No motion picture shall be exhibited within the designated gaming area either by direct projection or by closed circuit television which would be classified as obscene material.

B. No live entertainment shall be permitted within the designated gaming area which includes:

1. the performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

2. the actual or simulated touching, caressing or fondling of breasts, buttocks, anus or genitals; or

3. the actual or simulated display of the pubic hair, vulva, genitals, anus, female nipple or female areola.

C. No entertainment shall be offered within the designated gaming area unless the licensee receives approval from the board to provide such entertainment. The licensee shall file a written submission with the board at least five days prior to the commencement of such entertainment, which submission shall include, at a minimum, the following information:

1. the date and time of the scheduled entertainment;

2. a detailed description of the type of entertainment to be offered;

3. the number of persons involved in the entertainment;

4. the exact location of the entertainment in the designated gaming area;

5. a description of any additional security measures that will be implemented as a result of the entertainment; and

6. a certification from the licensee that the proposed entertainment will not adversely affect the security and integrity of gaming operations.

D. The submission in the above Section shall be deemed approved by the board unless the licensee is notified in writing to the contrary within five days of filing.

E. The board may at any time after the granting of approval require the licensee to immediately cease any entertainment offered within the designated gaming area if the entertainment provided is in any material manner different from the description contained in the submission filed pursuant to the above Section, or in any way compromises the integrity of gaming operations.

F. In reviewing the suitability of an entertainment proposal, the board shall consider the extent to which the entertainment proposal:

1. may unduly interfere with efficient gaming operations;

2. may unduly interfere with the security of the casino or any of the games therein or any restricted area; or

3. may unduly interfere with surveillance operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:767 (April 2000).

§2937. Distributions

A. The board shall receive written notice within five days of the completion of the following transactions:

1. withdrawal of capital in excess of 5 percent of the licensee's net gaming proceeds for the preceding 12 month period;

2. the granting of a loan or any other extension of credit in excess of 5 percent of the licensee's net gaming proceeds for the preceding twelve-month period;

3. any advance or other distribution of any type of asset in excess of 5 percent of the licensee's net gaming proceeds for the preceding 12 month period;

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:767 (April 2000).

§2939. Action Based Upon Order of Another Jurisdiction

The board may take enforcement action against a licensee or other person who has been disciplined in another jurisdiction for gaming related activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000).

§2941. Access by Board to Licensee Computer Systems

The board may require a licensee to place a computer terminal in the board room whereby the board has contemporaneous access to records and data relating to the gaming operations. Such data shall include but not be limited to credit transactions, amounts wagered and paid to winners, player tracking information and expenses relating to payment of compensation to employees. Board agents shall have unrestricted access to all records of a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000).

§2943. Gaming Employees Prohibited from Gaming

A licensee or the holder of a permit is prohibited from participating as a patron or a player in any slot gaming activity where the person is employed or performs a gaming function.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000).

§2944. Waivers and Authorizations

All waivers of the board policies, special requests, and additional approvals by the board, except matters concerning emergency situations, must be submitted, in writing, to the board no less than ninety days prior to the licensee's planned implementation date of such. No waiver or board approval is valid until such time as the licensee receives an authorization number and written approval from the board, except approvals to ship gaming devices into the state in which case the board shall give an approval number for the shipment. The board declares the right to determine what constitutes an emergency situation on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000).

§2945. Restrictive Areas

A. Only authorized persons as provided in Chapter 27 of these rules, or in the licensee's internal controls as approved by the board, may enter restrictive areas within the eligible facility. For the purpose of this Subsection, restrictive areas shall include, but are not limited to the following:

1. cage and cashier areas;
2. casino vault;
3. soft count and hard count;
4. surveillance room;
5. any other area designated by the licensee and/or the board.

B. licensee shall implement procedures to insure compliance with this Section. The board may require the licensee to erect barriers, stanchions, signage, and other such equipment as necessary to prohibit unauthorized persons from entering these areas.

C. The licensee may submit for approval to the board internal control procedures which allow housekeeping and maintenance personnel access to sensitive areas for maintenance purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000).

§2947. Comfort Letters

A. The chairman may authorize the issuance of comfort letters by the board or division. A comfort letter may be issued on any matter over which the board has regulatory power or enforcement power as authorized by the act or by the board's rules. A comfort letter may be a prior approval for a matter for which such prior approval is not required by the act or by these rules, a statement of no objection by the board or division for a matter for which an approval is not required by the act or these rules, or such other matters as the chairman may deem appropriate.

B. A request for a comfort letter must be in writing and must be received by the board or division at least 60 days in prior to the event, transaction, occurrence or other matter for which the comfort letter is sought. The 60 day requirement may be waived by the supervisor upon a showing of good cause.

C. A comfort letter shall only be a statement of the board's or division's position on a matter as is outlined or described in the written request authorized by this Section. Any matter over which a comfort letter has been issued is still subject to board approval after an appropriate investigation as is authorized by the act or these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000).

§2951. Approvals

All approvals issued by the board or division are conditional and ineffective unless they are in writing and signed by the chairman or supervisor or by an agent authorized to sign on behalf of the supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000).

§2953. Promotions and Tournaments

A. All promotion programs or marketing programs shall be subject to prior written approval by the board unless otherwise provided in this rule.

B. All slot tournaments conducted by or on behalf of the licensee are subject to prior written approval by the board.

1. A slot tournament is a contest or event wherein persons play a game or games previously authorized by the board in competition with each other to determine the winner of a prize or prizes.

2. A slot tournament shall include, but is not limited to any contest or event wherein an entry fee is paid to play a

game previously approved by the board. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of a slot tournament shall be made in writing and received by the board at least thirty days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The board may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming proceeds for purposes of determining net slot machine gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the entry fees before calculating net slot machine gaming proceeds. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating net slot machine gaming proceeds. No other deductions shall be made for purposes of calculating net slot machine gaming proceeds. The licensee shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating net slot machine gaming proceeds.

5. All entry fees and cash prizes shall be reported on the daily tax remittance summaries in a manner approved by the board. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily tax remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with the board's rules concerning record retention in Chapter 27.

C. A slot jackpot may be increased as part of a promotion program or marketing program. The increased portion of the jackpot which results from the promotion shall not be paid by the machine itself. The increased portion of the jackpot shall be paid manually and shall not be considered a payout for purposes of calculating the licensee's net slot machine proceeds. The increased payout shall be considered a promotional expense of the licensee and accounted on the licensee's books accordingly.

D. Licensees are allowed to conduct "giveaways" of prizes and cash awards only under the following conditions:

1. All persons 21 years of age and older shall be eligible to receive a prize or cash award.

2. All persons under 21 years of age shall be ineligible to receive any prize or cash award.

3. A person eligible to receive a prize or cash award shall not be required to purchase any thing of value, including the purchase of tokens from the licensee, or from any other business.

4. Those persons eligible to win must not be required to participate in any gaming activity in the eligible facility.

5. Those persons eligible to win must not be required to participate in any activity or event for which that person must put up anything of value or pay an entry fee.

6. The licensee shall give and the board shall receive at least five days written notice, exclusive of weekends and holidays, of any giveaway. Such notice shall describe the giveaway in detail including the manner in which a person becomes eligible to receive the prize or cash award and the prize or cash award to be given away. The notice shall also provide the full name, telephone number, and complete address of a contact person who has authority to make decisions relative to the giveaway.

7. Prior approval for a giveaway is not required. The board may disapprove a giveaway at any time. If the board disapproves a giveaway, then the giveaway may not be conducted. If a giveaway is already underway, the giveaway shall be discontinued upon notice of disapproval by the board. A disapproval does not need to be in writing to be effective, but any oral disapproval must be followed by written notice of the disapproval within three days of the oral disapproval.

8. Giveaways do not include increased jackpots.

9. Giveaways are prohibited by licensees who assess an admission fee unless all persons paying the admission fee receive something of value.

E. Promotion in which a person may become eligible to receive anything of value including cash as a result of a drawing from tickets or other items evincing a right to participate are prohibited unless the following conditions are met:

1. A person shall be able to enter the drawing without the payment of money or without putting up anything else of value.

2. Entry forms for a drawing shall be made available to the general public at a location not included in the designated gaming area. The location of the entry forms shall be conveyed to the general public in a prominent manner. Entry forms may be made available by the licensee, but the licensee shall not automatically give entry forms to persons playing any authorized game.

3. The licensee shall give and the board shall receive at least three days written notice, exclusive of weekends and holidays, of any drawing. Such notice shall describe the drawing in detail including the manner in which a person becomes eligible to receive the prize or cash award offered in the drawing. The notice shall also provide the full name, telephone number, and complete address of a contact person who has authority to make decisions relative to the drawing.

4. Prior approval for a drawing is not required. The board may disapprove a drawing at any time. If the board disapproves a drawing, then the drawing may not be conducted. If a drawing is already underway, the drawing shall be discontinued upon notice of disapproval by the board. A disapproval does not need to be in writing to be effective, but any oral disapproval must be followed by written notice of the disapproval within three days of the oral disapproval.

F. The following activities are prohibited.

1. Pull Tabs. A single or banded tickets or cards, each with its face covered to conceal one or more numbers or symbols, wherein one or more card or ticket in each set has been designed in advance as a winner.

2. A game of chance commonly known as a raffle or raffles played by drawing for prizes or the allotment of prizes by chance by the selling of shares tickets, or rights to participate in such game or games. Raffle does not include a drawing authorized in Subsection E. Raffle does not include a giveaway authorized in Subsection D.

G. Any other promotion not expressly authorized by this rule, nor expressly prohibited by this rule shall be subject to prior written approval by the board. The licensee shall give and the board shall receive sixty days written notice of the promotion.

H. The board may alter or waive the requirements of this rule upon a showing of good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000).

§2955. Key Employee on Premises

A permitted key employee of the Type A licensee shall be on the premises of the eligible facility at all times during gaming operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:770 (April 2000).

Chapter 33. Surveillance and Security

§3301. Required Surveillance Equipment

A. The holder of a Type A license shall install in the eligible facility a closed circuit television system, in accordance with the specifications herein, and shall provide for access at all times to the system or its signal by agents of the division. The closed circuit television system must meet or exceed specifications established by the division to include:

1. solid state, black and white cameras, as approved by the division, installed in fixed positions with matrix control and/or with pan, tilt, and zoom capabilities, secreted from public and nonsurveillance personnel view to effectively and clandestinely monitor in detail, from various vantage points, the following:

a. the gaming conducted at the electronic gaming devices; including, but not limited to the coin and currency acceptor area, the payout tray, and the designated house number assigned to the device or its location;

b. the count processes conducted in the count rooms;

c. the movement of cash, drop boxes, token storage boxes, and drop buckets within the eligible facility and any area of transit of uncounted tokens, cash and cash equivalents;

d. any area where tokens or other cash equivalents can be purchased or redeemed;

e. the entrance and exits to the eligible facility, designated gaming area and the count rooms;

f. such other areas as the division designates.

2. individual solid state, color television cameras, as approved by the division, with matrix control and/or pan,

tilt, and zoom capabilities, secreted from public and nonsurveillance personnel view, augmented with appropriate color corrected lighting to effectively and clandestinely monitor in detail, from various vantage points, the operations conducted at the fills and credit area of the cashier's cage(s).

3. Video monitors that meet or exceed the resolution requirement for video cameras with solid state circuitry, and time and date insertion capabilities for taping what is being viewed by any camera in the system. Each video monitor screen must measure diagonally at least 12 inches and all controls must be front mounted.

4. Video printers capable of adjustment and possessing the capability to generate instantaneously, upon command, a clear, color and/or black and white, copy of the image depicted on the videotape recording.

5. Date and time generators based on a synchronized, central or master clock, recorded on tape and visible on any monitor when recorded.

6. Wiring to prevent tampering. The system must be supplemented with a back-up gas/diesel generator power source which is automatically engaged in case of a power outage and capable of returning to full power within seven to ten seconds.

7. An additional uninterrupted power supply system so that time and date generators remain active and accurate, and switching gear memory and video surveillance of all eligible facility and designated gaming area entrances/exits and cage areas is continuous.

8. Video switchers capable of both manual and automatic sequential switching for the appropriate cameras.

9. Video tape recorders, as approved by the division, capable of producing high quality first generation pictures and recording on a standard 1/2-inch VHS tape with high speed scanning and flickerless playback capabilities in real time, or other medium approved by the division. Such videotape recorders must possess time and date insertion capabilities for taping what is being viewed by any camera in the system.

10. Audio capability in the soft count room.

11. Adequate lighting in all areas where camera coverage is required. The lighting shall be of sufficient intensity to produce clear videotape and still picture production, and correct color correction where color camera recording is required. The video must demonstrate a clear picture, in existing light under normal operating conditions.

12. At all times during the conduct of gaming, the licensee shall have as a reserve, at a minimum, one back-up camera and one video recording device in the event of failure.

13. The division may allow alternative surveillance equipment at the supervisors discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:770 (April 2000).

§3303. Surveillance and Security Plans

A. Every applicant for a Type A license shall submit to the division a surveillance system plan no later than one hundred twenty days prior to the start of gaming operations. The surveillance system plan must include a floor plan that shows the placement of all surveillance equipment in

relation to the locations required to be covered by this regulation and a detailed description of the casino surveillance system and its equipment. The plan must also include a detailed description of the layout the surveillance room and the configuration of the monitoring equipment. In addition, the plan may include other information that evidences compliance with this Subsection by the applicant including, but not limited to, a casino configuration detailing the location of all gaming devices and equipment.

B. Any changes to the surveillance room or the surveillance system shall be submitted to the division for prior approval as provided in these rules.

C. Every applicant for a Type A license shall submit to the division a security plan as part of the licensee's system of internal controls no later than 120 days prior to the start of gaming operations. The security plan must include, at a minimum, the following:

1. a detailed description by position of each security officer/employee, to include their duties, assignments and responsibilities;
2. the number of security employees assigned by shift;
3. general procedures for handling incidents requiring the assignment of a security officer;
4. radio protocol and a description of authorized radio codes to be used;
5. training requirements and procedures; and
6. other information required by the division that evidences compliance with this chapter by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:770 (April 2000).

§3305. Surveillance and Division Room Requirements

A. There shall be, for the exclusive use of division agents and for the use by employees of the licensee, rooms at each eligible facility for monitoring and recording purposes. The room for the exclusive use of the division shall be designated the division room. The room for the use of the licensee shall be designated the surveillance room.

B. All equipment that is utilized to monitor or record must remain solely accessible to the surveillance room personnel and be exclusively for licensee gaming operations surveillance, except when such equipment is being repaired or replaced, unless otherwise approved by the division.

C. Employees of the licensee assigned to monitoring duties in the surveillance room shall have no other gaming-related duties within the gaming operation, and are prohibited from being employed by another licensee.

D. The interior of the division room and the surveillance room shall not be visible to the public.

E. Each eligible facility shall have a minimum of five monitors in the surveillance room, and two monitors in the division room. Each room shall have appropriate switching capabilities to insure that all surveillance cameras are accessible to monitors in both rooms. The equipment in the division room must be able to monitor and record, without being over ridden, anything visible by monitor to employees of the licensee.

F. Agents of the division, upon presentation of proper division credentials, shall be provided immediate access to the surveillance room and other surveillance areas upon request. In addition, agents are to be provided, upon request,

copies of recorded videotapes of activities as well as copies of any images produced on a video printer. The division shall have absolute, unfettered access to the surveillance room at all times and the division shall have the right to take control of said room.

G. The division room shall be furnished with all necessary furniture and fixtures as specified by the division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility to division agents to review, monitor and record data identical to that specified in Chapter 42 and 43 of these rules.

H. The surveillance room shall be manned by approved surveillance operators at all times, unless otherwise authorized by the division. The supervisor reserves the right to require additional surveillance personnel should he determine that an inadequacy of surveillance monitoring exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:771 (April 2000).

§3307. Segregated Telephone Communication

A segregated telephone communication system shall be provided for use by division agents in the division room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:771 (April 2000).

§3309. Security and Surveillance Logs

A. The Type A licensee shall be required to maintain a surveillance log approved by the division. The log shall be maintained by surveillance room personnel in the surveillance room. The division shall have access at all times to the log. A log entry shall be made in the surveillance log of each surveillance activity. Each log entry shall include the following:

1. all persons entering and exiting the surveillance room;
2. summary, including date, time and duration, of each surveillance activity;
3. record of any equipment or camera malfunctions;
4. description of any unusual events occurring; and
5. any additional information as required by the division.

B. The Type A licensee shall be required to maintain a security log of any and all unusual occurrences for which the assignment of a security department employee is made. Each incident, without regard to materiality, shall be assigned a sequential number and an entry made in the log containing, at a minimum, the following information:

1. the assignment number;
2. the date;
3. the time;
4. the nature of the incident;
5. the person involved in the incident; and
6. the security department employee assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:771 (April 2000).

§3311. Storage and Retrieval

A. All videotape recordings shall be retained for at least seven days, unless these rules provide otherwise, and shall be listed on a log by surveillance personnel with the date, times, and identification of the person monitoring or changing the tape in the recorder. Original videotape recordings will be released to the division upon demand.

B. Any videotape recording of illegal or suspected illegal activity shall, upon completion of the tape, be removed from the recorder and etched with date, time and identity of surveillance personnel. The videotape shall be placed in a separate, secure area and notification given to the division.

C. All videotape recordings relating to the following shall be retained in a secure area approved by the division for at least fifteen days and shall be listed on a log maintained by surveillance personnel:

1. all count room areas;
2. the vault area; and
3. all credit and fill slip confirmation recordings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:772 (April 2000).

§3313. Reserved

§3315. Maintenance and Testing

A. At various times, all surveillance equipment shall be subject to impromptu division testing of minimum standards of resolution and operation. Any malfunction of surveillance equipment shall necessitate the immediate replacement of the faulty equipment. If immediate replacement is not possible, alternative live monitoring must be provided by security personnel. The licensee shall promptly notify the division of the malfunction. The division shall determine if gaming should continue with live monitoring and shall have authority to cease gaming operations not monitored by the CCTV surveillance system. At no time shall gaming be allowed to continue using live monitoring for longer than a reasonable period of time to make repairs to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:772 (April 2000).

Chapter 35. Patron Disputes

§3501. Licensee Duty to Notify Division of Patron Dispute

Whenever a licensee refuses to pay winnings claimed by a patron and the patron and the licensee are unable to resolve the dispute, the licensee shall notify the division in writing of the dispute within seven days of the licensee being notified of the dispute. Such notice shall identify the parties involved in the dispute, and shall state all known relevant facts regarding the dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:772 (April 2000).

Chapter 37. List of Excluded Persons

§3701. Contents of the Exclusion List

A. Contents of the Exclusion List. The following information shall be provided for each excluded person:

1. the full name of the person and any known aliases the person is believed to have used;

2. a description of the person's physical appearance, including height, weight, type of build, color of hair and eyes, and any other physical characteristics that may assist in identifying the person;

3. the date of birth of the person;

4. the date of the order mandating exclusion of the person;

5. a photograph of the person, if available and the date thereof; and

6. the person's occupation and his current home and business address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:772 (April 2000).

§3703. Maintenance and Distribution of the List

A. The division shall maintain a list of persons to be excluded or ejected from the designated gaming area of an eligible facility.

B. The list shall be open to public inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:772 (April 2000).

§3705. Duty of Licensees to Exclude

A. Whenever an excluded person enters or attempts to enter the designated gaming area of an eligible facility licensed pursuant to the act, and is recognized by the licensee or his agents or employees, the licensee and his agents and employees shall:

1. immediately notify the division of the presence of the excluded person, and

2. require such excluded person to not to enter the designated gaming area. The division may impose sanctions on a licensee if the licensee or his agents or employees knowingly fails to exclude from the designated gaming area a person placed on the list by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:772 (April 2000).

§3707. Standards for Exclusion

A. A person shall not be placed on the list based on the individual's race, color, creed, national origin, or sex. Any one of the following criteria is sufficient to justify naming the individual on the list, and any of the criteria is deemed satisfied if such person:

1. has been convicted of a gaming crime;

2. has performed any act or has a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming, including, but not limited to, being identified with criminal activities in published reports of various federal and state legislative and executive bodies that have inquired into criminal activities;

3. has been named on any valid and current Exclusion List from another jurisdiction in the United States or foreign country;

4. has been convicted of cheating or has been convicted of cheating in any other jurisdiction;

5. has been convicted of any crime related to the integrity of gaming operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

§3709. Voluntary Exclusion by Request

Any individual may request exclusion by providing evidence thereof satisfactory to the division and by voluntarily entering into a written agreement with the division whereby the supervisor is asked and authorized to notify each licensee of the request. Such person shall be named on a separate list designated requested exclusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

§3711. Notice and Opportunity to be Heard

A. Upon a determination by the division that one or more of the standards for being named on the excluded list are satisfied, such person shall be deemed a candidate and the division shall serve notice of exclusion upon such person by certified mail. The notice shall:

1. identify the candidate by name, including aliases, and last known address;
2. specify the nature and scope of the circumstances or reasons for such person's candidacy;
3. inform the candidate of his right to request a hearing to review the decision of the division in the same manner as is provided for hearings on denials of permits
4. inform the candidate that the failure to timely request a hearing shall result in the decision becoming final and a waiver of any further review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

§3713. Effect of Notice

A person named in a notice of exclusion is prohibited from further contact of any kind with any gaming operation licensed by the board unless and until a determination is made by the hearing officer at a hearing requested by the candidate that the candidate should not be so excluded. If the hearing officer determines at a requested hearing that the candidate should be excluded, the exclusion shall be final and shall continue pending any appeal of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

§3721. Effect of a Finding that a Candidate Should Not be Excluded

If the hearing officer at a hearing requested by a candidate determines the candidate should not be excluded, or if the hearing officer's decision to exclude the person is reversed on appeal, the candidate's name shall be removed from the list and his exclusion shall be terminated as of the date of the action taken by the hearing officer, board or court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

Chapter 41. Enforcement Actions

§4101. Emergency Orders

A. An emergency order may only be issued by or on behalf of the chairman.

B. An emergency order is effective immediately upon issuance and notice to the licensee.

C. An emergency order is subject to appeal in the same manner as other board orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

§4103. Chairman Action by Order

A. If the board, after investigation, is satisfied that a license or other authorization should be limited, conditioned, suspended or revoked, on an emergency basis, or that other action is necessary or appropriate to carry out the provisions of the act or regulations, the chairman shall issue an order:

1. limiting or restricting a license or authorization; or
 2. suspending or revoking a license or authorization;
- or
3. directing actions deemed necessary to carry out the intent of the act or regulations, including, but not limited to, requiring a licensee to keep an individual from the licensed premises, prohibiting payment for services rendered, prohibiting payment of profits, income, or accruals, or investment in the licensee or its operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

§4105. Criteria for Sanctions

In determining his decision, the chairman shall consider the factors identified in the act and these regulations as factors to be considered in determining sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

Chapter 42. Racetracks: Electronic Gaming Devices

§4201. Division's Central Computer System (DCCS)

A. An electronic gaming device offered for play in the designated gaming area of an eligible facility shall be linked by telecommunications to a central computer system for purposes of monitoring and reading device activities.

B. The central computer system shall be located within and administrated by the division.

C. The central computer system shall be capable of monitoring and reading financial aspects of each electronic gaming device such as:

1. coin in, coin out, coins to the drop, games played, hand paid jackpots, bills/paper currency accepted, and bills/paper currency by denomination accepted shall all be reported to the central computer system;
2. any device malfunction that causes any meter information to be altered, cleared, or otherwise inaccurate shall require immediate disablement of the electronic gaming device from patron play by the division;

3. no electronic gaming device shall be enabled for patron play after a meter malfunction until authorized by a division agent;

4. meter information required in C.1 of this Section will have been reported and documented by the central computer system on a previous event and will be used to provide all meter information prior to the device malfunction. Subsequent adjustments after the meter malfunction shall document a meter reasonableness as determined by the following procedures:

a. the meter information recorded prior to the device malfunction shall be verified as accurate by an operator of the DCCS;

b. a coin and bill validator test shall be performed on the electronic gaming device in the presence of a division agent;

c. upon successful completion of the coin and bill validator test, all final meter information shall be documented on forms prescribed by the division; and

d. the final meter information shall be reported to the DCCS operator and all final meter information shall be entered into the central computer system prior to the enablement of the electronic gaming device for patron play.

D. The central computer system shall provide for the monitoring and reading of exception code reporting to insure direct scrutiny of conditions detected and reported by the electronic gaming device, including any tampering, device malfunction, and any door opening to the drop areas:

1. Exception or event codes that signal illegal door opening(s) shall necessitate an investigation by a division agent, which may result in an administrative action against the Licensee.

2. All events that can be reported by an electronic gaming device shall be transmitted to the DCCS. The events reported are, but not limited to, as follows:

- a. machine power loss;
- b. main door open/closed;
- c. BVA or stacker accessed;
- d. hard drop door open/closed;
- e. logic board accessed;
- f. reel tilt;
- g. hopper empty;
- h. excess coin dispensed by the hopper;
- i. hopper jam;
- j. coin diverter error;
- k. battery low;
- l. jackpot win;
- m. jackpot reset; or
- n. logic board failure

3. In the event of any exception or event code, or combination thereof, that is reported to the DCCS, the division may require the disablement of the electronic gaming device.

E. No new electronic gaming device or EGD monitoring system shall be authorized for operation unless the electronic gaming device or EGD monitoring system meets the minimum requirements of §4201.

F. The DCCS shall not provide for the monitoring or reading of personal or financial information concerning any patron's gaming activities conducted at an eligible facility .

G. Any reference to slot machine or slots in this Chapter includes all electronic gaming devices, herein referred to as EGD's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000).

§4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers

A. A manufacturer or supplier shall not sell, lease or distribute EGD's or equipment in this state and a licensee shall not offer EGD's for play without first obtaining the requisite permit or license and obtaining prior approval by the division or board for such action. This Section shall not apply to those manufacturers or suppliers licensed or permitted to sell, lease or distribute EGD's or equipment in the state to an entity licensed under a provision of state law other than these rules when those manufacturers or suppliers are selling or distributing to such licensed entity.

B. Applications for approval of a new EGD shall be made and processed in such manner and using such forms as the division may prescribe. Licensees may apply for approval of a new EGD. Each application shall include, in addition to such other items or information as the division may require:

1. a complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device operates, signed under penalty of perjury; and

2. a statement, under penalty of perjury, that to the best of the applicant's knowledge, the EGD meets the standards set forth in this Chapter.

C. No game or EGD other than those specifically authorized in this Chapter may be offered for play or played at an eligible facility except that the division may authorize the operation of progressive electronic EGD's as part of a network of separate gaming operations licensed by the division with an aggregate prize or prizes.

D. Approval shall be obtained from the division prior to changing, adding, or altering the casino configuration once such configuration has received final divisional approval. For the purpose of this Section, altering the casino configuration does not include the routine movement of EGD's for cleaning and/or maintenance purposes.

E. All components, tools, and test equipment used for installation, repair or modification of EGD's shall be stored in the slot technician repair office. Such office shall be kept secure, and only authorized personnel shall have access. Any compartment or room that contains communications equipment used by the EGD's and the EGD monitoring system shall be kept secure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:774 (April 2000).

§4203. Minimum Standards for Electronic Gaming Devices

A. All EGD's submitted for approval:

1. shall be electronic in design and operation and shall be controlled by a microprocessor or micro-controller or the equivalent;

2. shall theoretically pay out a mathematically demonstrable percentage of all amounts wagered, which shall not be less than eighty percent and not more than ninety nine point nine percent (99.9%) for each wager available for play on the device;

3. shall use a random selection process to determine the game outcome of each play of a game. The random selection process shall meet ninety-nine percent confidence limits using a standard chi-squared test for goodness of fit and in addition:

a. each possible permutation or combination of game elements which produce winning or losing game outcomes shall be available for random selection at the initiation of each play; and

b. the selection process shall not produce detectable patterns of game elements or detectable dependency upon any previous game outcome, the amount wagered, or upon the style or method of play.

4. shall display an accurate representation of the game outcome. After selection of the game outcome, the EGD shall not make a variable secondary decision which affects the result shown to the player;

5. shall display the rules of play and payoff schedule;

6. shall not automatically alter pay-tables or any function of the device based on internal computation of the hold percentage;

7. shall be compatible to on-line data monitoring;

8. shall have a separate locked internal enclosure within the device for the control circuit board and the program storage media;

9. shall be able to continue a game with no data loss after a power failure;

10. shall have current game and the previous two games data recall;

11. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

12. shall contain a surge protector on the line that feeds power to the device. The battery backup or an equivalent for the electronic meter information shall be capable of maintaining accuracy of all information required for one hundred eighty days after power is discontinued from the device. The backup shall be kept within the locked logic board compartment;

13. shall have an on/off switch that controls the electrical current used in the operation of the device which shall be located in an accessible place within its interior;

14. shall be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

15. shall have at least one electronic coin acceptor and may be equipped with an approved currency acceptor. Coin and currency acceptors shall be designed to accept designated coins and currency and reject others. The coin

acceptor on a device shall be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All types of coin and currency acceptors are subject to the approval by the division. The control program shall be capable of handling rapidly fed coins so that occurrences of inappropriate "coin-ins" are prevented;

16. shall not contain any hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

17. shall contain a nonremovable identification plate containing the following information, appearing on the exterior of the device:

- a. manufacturer;
- b. serial number; and
- c. model number.

18. shall have a communications data format from the EGD to the EGD monitoring system approved by the division;

19. shall be capable of continuing the current game with all current game features after a malfunction is cleared. This rule does not apply if a device is rendered totally inoperable. The current wager and all credits appearing on the screen prior to the malfunction shall be returned to the patron;

20. shall have attached a locked compartment separate from any other compartment of the device for housing a drop bucket. The compartment shall be equipped with a switch or sensor that provides detection of the drop door opening and closing by signaling to the EGD monitoring system;

21. shall have a locked compartment for housing currency, if so equipped with a currency acceptor;

22. shall, at a minimum, be capable of detecting and displaying the following error conditions which an attendant may clear:

- a. coin-in jam;
- b. coin-out jam;
- c. currency acceptor malfunction or jam;
- d. hopper empty or time-out;
- e. program error;
- f. hopper runaway or extra coin paid out;
- g. reverse coin-in;
- h. reel error; and
- i. door open.

23. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

24. shall have a mechanical, electrical, or electronic device that automatically precludes a player from operating the device after a jackpot requiring a manual payout and requires an attendant to reactivate the device; and

25. shall be outfitted with any other equipment required by this Chapter or the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:775 (April 2000).

§4204. Progressive Electronic Gaming Devices

A. This Section authorizes the use of progressive EGD's among gaming operations licensed pursuant to the provisions of R.S. 27:51 et seq, R.S. 27:201 et. Seq. and R.

S. 27:351 et seq., in the state of Louisiana within one eligible facility provided that the EGD's meet the requirements stated in this Chapter and any additional requirements imposed by these rules.

B. Wide area progressive games that link EGD's located on more than one eligible facility shall be approved by the board and division on a case-by-case basis.

C. Progressive EGD's Defined

1. A progressive EGD is an electronic gaming device with a payoff that increases uniformly as the EGD or another device on the same link is played.

2. "Base amount" means the amount of the progressive jackpot offered before it increases.

3. "Incremental amount" means the difference between the amount of a progressive jackpot and its base amount.

4. A progressive jackpot may be won where certain preestablished criteria, which does not have to be a winning combination, are satisfied.

5. A bonus game where certain circumstances are required to be satisfied prior to awarding a fixed bonus prize is not a progressive EGD and is not subject to this Chapter.

D. Transferring of Progressive Jackpot which is in Play:

1. A progressive jackpot which is currently in play may be transferred to another progressive EGD on the eligible facility in the event of:

- a. EGD malfunction;
- b. EGD replacement; or
- c. other good reason deemed appropriate by the division or board to ensure compliance with this Chapter.

2. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the division.

E. Recording, Keeping and Reconciliation of Jackpot Amount

1. The licensee shall maintain a record of the amount shown on a progressive jackpot meter on the eligible facility and/or dockside premises. The progressive jackpot meter information shall be read and documented, at a minimum, every 24 hours. Electronic meter information shall be recorded when a primary jackpot occurs on an EGD.

2. Supporting documents shall be maintained to explain any reduction in the payoff amount from a previous entry.

3. The records and documents shall be retained for a period of five years.

4. The licensee shall confirm and document, on a quarterly basis, that proper communication was maintained on each EGD linked to the progressive controller during that time.

5. The licensee shall record the progressive liability on a daily basis.

6. The licensee shall review, on a quarterly basis, the incremented rate and reasonableness of the progressive liability by either a physical coin-in test or by meter readings to calculate incremental coin-in multiplied by the rate incremented to arrive at the increase in, and reasonableness of, the progressive jackpot amount.

7. Each licensee shall formally adopt the manufacturer's specified internal controls, as approved by the division, as part of the licensee's system of internal controls.

F. The Progressive Meter. The EGD shall be linked to a progressive meter or meters showing the current payoff to all players who are playing an EGD which may potentially win the progressive amount. A meter that shows the amount of the progressive jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

G. Consistent Odds on Linked EGD's. When more than one progressive EGD is linked together, each EGD in the link shall be the same denomination and have the same probability of hitting the combination that will award the progressive jackpot or jackpots as every other machine in the link.

H. Operation of Progressive Controller-Normal Mode

1. During the normal operating mode of the progressive controller, the controller shall do the following:

a. Continuously monitor each EGD attached to the controller to detect inserted coins or credits wagered.

b. Multiply the accepted coins by the denomination and the programmed rate progression in order to determine the correct amounts to apply to the progressive jackpot.

2. The progressive display shall be constantly updated as play on the link is continued. It will be acceptable to have a slight delay in the update so long as when a jackpot is triggered the jackpot amount is shown immediately.

I. Operation of Progressive Controller-Jackpot Mode

1. When a progressive jackpot is recorded on an EGD which is attached to the progressive controller or another attached approved component or system, hereinafter "progressive controller", the progressive controller shall allow for the following:

a. Display of the winning amount.

b. Display of the EGD identification that caused the progressive meter to activate if more than one EGD is attached to the controller.

2. The progressive controller is required to send to the EGD the amount that was won. The EGD is required to update its electronic meters to reflect the winning jackpot amount consistent with this Chapter.

3. When more than one progressive EGD is linked to the progressive controller, the progressive controller shall automatically reset to the reset amount and continue normal play. During this time, the progressive meter or another attached approved component or system shall display the following information:

a. The identity of the EGD that caused the progressive meter to activate.

b. The winning progressive amount.

c. The new normal mode amount that is current on the link.

4. A wide area progressive EGD and/or a progressive device where a jackpot of \$100,000 or more is won shall automatically enter into a nonplay mode which prohibits additional play on the device after a primary jackpot has been won on the device. Upon conclusion of necessary inspections and tests by the division, the device may be offered for play.

J. Alternating Displays. When this procedure prescribes multiple items of information to be displayed on a progressive meter, it is sufficient to have the information displayed in an alternating fashion.

K. Security of Progressive Controller

1. Each progressive controller linking two or more progressive EGD's shall be housed in a double keyed compartment in a location approved by the division. All keys shall be maintained in accordance with Chapter 27.

2. The division may require possession of one of the keys.

3. Persons having access to the progressive controller shall be approved by the division.

4. A list of persons having access to a progressive controller shall be submitted to the division.

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the division and completed by each individual who gains entrance to the controller.

2. Security restrictions shall be submitted in writing to the division for approval at least 60 days before their enforcement. All restrictions approved by the division shall be made on a case by case basis in the case of a stand-alone progressive where the controller is housed in the logic area.

3. The progressive controller shall keep the following information in nonvolatile memory which shall be displayed upon demand:

a. The number of progressive jackpots won on each progressive level if the progressive display has more than one winning amount.

b. The cumulative amounts paid on each progressive level if the progressive display has more than one winning amount.

c. The maximum amount of the progressive payout for each level displayed.

d. The minimum amount or reset amount of the progressive payout for each level displayed.

e. The rate of progression for each level displayed.

M. Limits on jackpot of progressive EGD's. A licensee may impose a limit on the jackpot of a progressive EGD if the limit imposed is greater than the possible maximum jackpot payout on the EGD at the time the limit is imposed. The eligible facility licensee shall inform the public with a prominently posted notice of progressive EGD's and their limits.

N. Licensee shall not reduce the amount displayed on a progressive jackpot meter or otherwise reduce or eliminate a progressive jackpot unless:

1. a player wins the jackpot;

2. the licensee adjusts the progressive jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to §4204.M and the licensee documents the adjustment and the reasons for it;

3. the licensee's gaming operations at the establishment cease for any reason other than a temporary closure where the same licensee resumes gaming operations at the same establishment within a month;

4. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment and:

a. the licensee documents the distribution;

b. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

c. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.B; and

d. The distribution is completed within thirty days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

e. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing.

5. Licensees shall preserve the records required by this Section for at least five years.

O. Individual Progressive EGD Controls

1. Individual EGD's shall have seven meters, including a coin-in meter, drop meter, jackpot meter, win meter, manual jackpot meter, progressive manual jackpot meter and a progressive meter.

P. Link Progressive EGD Controls

1. Each machine shall require the same number of tokens be inserted to entitle the player to a chance at winning the progressive jackpot and every token shall increment the meter by the same rate of progression as every other machine in the group.

2. When a progressive jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current "Current Progressive Jackpot Amount."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:775 (April 2000).

§4205. Computer Monitoring Requirements of Electronic Gaming Devices

A. The Licensee shall have a computer connected to all EGD's on the eligible facility to record and monitor the activities of such devices. No EGD's shall be operated unless it is on-line and communicating to a computer monitoring system approved by a designated gaming laboratory specified by the division or board. Such computer monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the division.

1. Any occurrence of malfunction or interruption of communication between the EGD's and the EGD monitoring system shall immediately be reported to the division. These malfunctions include, but are not limited to, zeroed meters, invalid meters and any variance between EGD drop meters and the actual count of the EGD drop.

2. Prior written approval from the division is required before implementing any changes to the computerized EGD monitoring system.

3. Each and every modification of the software shall be approved by a designated gaming laboratory specified by the division or board.

B. The computer permitted by Paragraph 1 of this Subsection shall be designed and operated to automatically perform and report functions relating to EGD meters, and other exceptional functions and reports in the eligible facility as follows:

1. record the number and total value of tokens placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of tokens deposited in the drop bucket of the EGD;

4. record the number and total value of tokens automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of tokens to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD.

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the drop area. In addition, any person opening the EGD or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry;

7. be capable of logging in and reporting any revenue transactions not directly monitored by token meter, such as tokens placed in the EGD as a result of a fill, and any tokens removed from the EGD in the form of a credit; and

8. identify any EGD taken off-line or placed on-line of the computer monitor system, including date, time, and EGD identification number.

9. report the time, date and location of open doors or error conditions, as specified in §4201.D.2, by each EGD.

C. The licensee shall store, in machine-readable format, all information required by Subsection B. for the period of five years. The licensee shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a division agent in the format and media approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:777 (April 2000).

§4206. Employment of Individual to Respond to Inquires from the Division

Each manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the division to any inquires from him concerning the EGD or any modifications to the device. Each manufacturer shall on or before December 31st of each year report in writing the name of the individual designated pursuant to this Section and shall report in writing any change in the designation within fifteen days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:778 (April 2000).

§4207. Evaluation of New Electronic Gaming Devices

A. The division may require transportation of not more than two working models of a new EGD to a designated gaming laboratory for review and inspection. The manufacturer seeking approval of the device shall pay the

cost of the inspection and investigation. The designated gaming laboratory may dismantle the models and may destroy electronic components in order to fully evaluate the device. The division may require that the manufacturer provide specialized equipment or the services of an independent technical expert to evaluate the device.

B. The division may require the manufacturer or supplier seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the equipment, and may employ an outside designated gaming laboratory to conduct the evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:778 (April 2000).

§4208. Certification by Manufacturer

A. After completing its evaluation of a new EGD, the lab shall send a report of its evaluation to the division and the manufacturer seeking approval of the device. The report shall include an explanation of the manner in which the device operates. The manufacturer shall return the report within fifteen days and shall either:

1. certify under penalty of perjury that to the best of its knowledge the explanation is correct; or

2. make appropriate corrections, clarifications, or additions to the report and certify under penalty of perjury that to the best of its knowledge the explanation of the EGD is correct amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:778 (April 2000).

§4209. Approval of New Electronic Gaming Devices

A. After completing its evaluation of the new EGD, the division shall determine whether the application for approval of the new EGD should be granted. In considering whether a new EGD will be given final approval, the division shall consider whether approval of the new EGD is consistent with this Chapter. Division approval of a EGD does not constitute certification of the device's safety.

1. Equipment Registration and Approval

a. All electronic or mechanical EGD's shall be approved by the division and/or its approved designated gaming laboratory and registered by the division prior to use.

b. The following shall not be used for gaming by any licensee without prior written approval of the division:

i. bill acceptors or bill validators;

ii. coin acceptors;

iii. progressive controllers;

iv. signs depicting payout percentages, odds, and/or rules of the game;

v. associated gaming equipment as provided for in Chapter 42 of the Administrative Rules.

c. The licensee and/or manufacturer's request for approval shall describe with particularity the equipment or device for which the division's approval is requested.

d. The division may request additional information or documentation prior to issuing written approval.

2. Testing

a. The following shall be tested prior to registration or approval for use:

- i. all EGD's;
- ii. EGD monitoring systems;
- iii. any other device or equipment as the division may deem necessary to ensure compliance with this.

b. The division may employ the services of a designated gaming laboratory to conduct testing.

i. Any new EGD not presently approved by the division shall first meet the approval and testing criteria of the division/board's recognized designated gaming laboratory, who shall evaluate and test the product and issue a written opinion to the division of all test results. The licensee, manufacturer or supplier shall incur all costs associated with the testing of the product. This may include costs for field test, travel, laboratory test, and/or other associated costs. Failure on the part of the requesting party to timely pay these cost may be grounds for the denial of the request and cause for enforcement action by the division. Recommendations of approval by the designated gaming laboratory with regard to program approval(s) shall constitute division approval and do not require separate written approval by the division. Other test determinations shall be reviewed by the division and a written decision shall be issued by the division. In situations wherein the need for specific guidelines and internal controls are required, the division will work in concert with the designated gaming laboratory to develop guidelines for each licensee. Licensees shall be required to comply with these guidelines and they shall become part of the licensee's system of internal controls. At no time shall an unauthorized program, gaming device, associated equipment and/or component be installed, stored, possessed, or offered for play by a licensee, permittee, its agent, representative, employee or other person in the Louisiana pari-mutuel gaming industry.

c. Registration and/or approval shall not be issued unless payment for all costs of testing is current.

d. Registration, approval, or the denial of EGD's, or any other device or equipment shall be issued in accordance with these rules.

e. EGD's shall meet all specifications as required in §4203 and shall meet the following security and audit specifications:

- i. be controlled by a microprocessor;
- ii. be connected and communicating to an approved on-line EGD monitoring system;
- iii. have an internal enclosure for the circuit board which is locked or sealed, or both, prior to and during game play;
- iv. be able to continue a game with no loss of data after a power failure;
- v. have game data recall for the current game and the previous two games;
- vi. have a random selection process that satisfies the ninety-nine percent confidence level using the following tests which shall not be predictable by players:
 - (a). standard chi-squared;
 - (b). runs; and
 - (c). serial correlation.
- vii. clearly display applicable rules of play and the payout schedule;

viii. display an accurate representative of each game outcome utilizing:

- (a). rotating wheels;
- (b). video monitoring; or
- (c). any other type of display mechanism that accurately depicts the outcome of the game.

f. All EGD's shall be registered with the division and shall have a registration sticker affixed to the device on or near the right inside portion of the device. It is incumbent on each licensee to ensure that the registration sticker is properly affixed and is valid. In the event the registration sticker becomes damaged or voided, the licensee shall immediately notify the division in writing. The division shall issue a replacement sticker and re-register the device as soon as practical.

g. All EGD's shall be located within the designated gaming area. This is inclusive of all "Free Pull" machines or similar devices. A device which is not in use may be stored in a secured area if approved in writing by the division.

h. Each licensee shall maintain a current inventory report of all EGD's and equipment. The inventory report shall include, but is not limited to, the following:

- i. the serial number assigned to the EGD by the manufacturer;
- ii. the registration number issued by the division;
- iii. the type of game the EGD is designed and used for;
- iv. the denomination of tokens or coins accepted by each EGD;
- v. the location of EGD's equipped with bill validators and any bill validators that stand alone;
- vi. the manufacturer of the EGD;
- vii. the location or house number of the EGD.

i. This inventory report shall be submitted to the division's Operational Section on a diskette, in a data text format, upon request by the division.

j. All EGD's offered for play shall be given a house number by the licensee. This house number shall not be altered or changed without prior written approval from the division. The licensee shall issue the house numbers in a systematic manner which provides for easy recognition and location of the device's location. This number shall be a part of the licensee's "On-Line Computer EGD Monitoring System", and shall be displayed, in part, on all on-line system reports. Each EGD shall have its respective house number attached to the device in a manner which allows for easy recognition by division personnel and surveillance cameras.

k. Control Program Requirements:

- i. EGD control programs shall test themselves for possible corruption caused by failure of the program storage media.
- ii. The test methodology shall detect 99 and 99.99 percent of all possible failures.
- iii. The control program shall allow for the EGD to be continually tested during game play.
- iv. The control program shall reside in the EGD which is contained in a storage medium not alterable through any use of the circuitry or programming of the EGD itself.
- v. The control program shall check the following:
 - (a). corruption of RAM locations used for crucial EGD functions;

(b). information relating to the current play and final outcome of the two prior games;

(c). random number generator outcome; and

(d). error states.

vi. The control RAM areas shall be checked for corruption following game initiation, but prior to display of the game outcome to the player.

vii. Detection of corruption is a game malfunction that shall result in a tilt condition which identifies the error and causes the EGD to cease further function.

viii. The control program shall have the capacity to display a complete play history for the current game and the previous two games.

ix. The control program shall display an indication of the following:

(a). the game outcome or a representative equivalent;

(b). bets placed;

(c). credits or coins paid;

(d). credits or coins cashed out; and

(e) any error conditions.

x. The control program shall provide the means for on-demand display of the electronic meters via a key switch or other mechanism on the exterior of the EGD.

1. Accounting Meters

i. EGD's shall be equipped with electronic meters;

ii. EGD's electronic meters shall have at least eight digits;

iii. EGD's shall tally totals to eight digits and be capable of rolling over when the maximum value is reached.

iv. The required electronic meters are as follows:

(a). The coin-in meter shall cumulatively count the number of coins wagered by actual coins inserted or credits bet, or both.

(b). The coin-out meter shall cumulatively count the number of coins that are paid by the hopper as a result of a win, or credits that are won, or both;

(c). The coins-dropped meter shall maintain a cumulative count of the number of coins that have been diverted into a drop bucket and credit value of all bills inserted into the bill validator for play.

(d). The jackpots-paid meter shall reflect the cumulative amounts paid by an attendant for progressive and nonprogressive jackpots.

(e). The games-played meter shall display the cumulative number of games played (handle pulls).

(f). The drop door meter shall display the number of times the drop door was opened.

(g). If the EGD is equipped with a bill validator, the device shall be equipped with a bill validator meter that records:

(i). the total number of bills that were accepted;

(ii). a breakdown of the number of each denomination of bill accepted; and

(iii). the total dollar amount of bills accepted.

v. EGD's shall be designed so that replacement of parts, modules, or components required for normal maintenance does not affect the electronic meters.

vii. EGD's shall have meters which continuously display the following information relating to the current play or monetary transaction:

(a). the number of coins or credits wagered in the current game;

(b). the number of coins or credits won in the current game, if applicable;

(c). the number of coins paid by the hopper for a credit cash out or a direct pay from a winning outcome;

(d). the number of credits available for wagering, if applicable.

vii. Electronically stored meter information required by this Section shall be preserved after power loss to the EGD by battery backup and be capable of maintaining accuracy of electronically stored meter information for a period of at 180 days.

m. No EGD may have a mechanism that causes the electronic accounting meters to clear automatically when an error occurs.

n. Clearing of the electronic accounting meters may be done only if approved in writing by the division. Meter readings, as prescribed by the division, shall be recorded before and after any electronic accounting meter is cleared or a modification is made to the device.

o. Hopper

i. EGD's shall be equipped with a hopper which is designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

(a). jammed coins;

(b). extra coins paid out;

(c). hopper runaways; and

(d). hopper empty conditions.

ii. The EGD control program shall monitor the hopper mechanism for these error conditions in all game states in accordance with this Chapter.

iii. All coins paid from the hopper mechanism shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

iv. Hopper pay limits shall be designed to permit compliance by licensees with all applicable taxation laws, rules, and regulations.

p. Communication Protocol. An EGD which is capable of a bi-directional communication with internal or external associated equipment shall use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the EGD.

q. EGD's installed and/or modified shall be inspected and/or tested by division agents prior to offering these devices for live play. Accordingly, no device shall be operated unless and until each regulated program storage media has been tested and sealed into place by division agent(s). The division's security tape shall at all times remain intact and unbroken. It is incumbent on the licensee to routinely inspect every device to ensure compliance with this procedure. In the event a licensee discovers that the security tape has been broken or tampered with, the power to the EGD shall be immediately turned off, surveillance shall be immediately notified and shall take a photograph of the logic board. The board shall be maintained in the surveillance office until a division agent has the opportunity to inspect the board. A copy of the device's "MEAL" card shall be made and shall accompany the board.

r. No Licensee or other person shall modify an EGD without prior written approval from the division. A request shall be made by completing form(s) prescribed by the division/board and filing it with the respective field office. The licensee shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for enforcement action.

s. EGD's shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

i. The EGD shall pay out at least 80 percent and not more than 99.9 percent of the amount wagered.

ii. The theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage.

iii. An EGD shall have a probability of obtaining the maximum payout greater than one in 50,000,000.

iv. An EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

t. Modifications to an EGD's program shall be considered only if the new program has been approved by the designated gaming laboratory, and if the existing program has met the minimum requirements as set forth herein. The minimum program change requirements are unique to each program or program storage media. Therefore, it is not practical to list each one. In general, a program shall meet the 99 percent confidence interval range of 80 percent to 99.9 percent prior to being removed or replaced. As stated, this confidence interval varies by program and manufacturer. The confidence interval is determined by the designated gaming laboratory who tests each program and determines the interval. For the purpose of these procedures, an interval shall be determined by the games played on the existing program. An EGD's program shall not be approved for change unless the existing program has met or exceeded the minimum required games played. Exceptions to this procedure are those situations in which it can be reasonably determined that a program chip is defective or malfunctioning, or during a 90 day trial period of a newly approved program.

u. A licensee shall be allowed to test, on a limited basis, newly approved programs. The licensee shall file an EGD 96-01 form and indicate in field 21 that the request is for a ninety-day trial period. Failure to do so may be grounds for denial of the request to remove the program prior to reaching the 99.9 percent confidence interval. The licensee, upon approval, shall be allowed to test the program and will be allowed to replace it during this 90 day period with cause. If a request to replace the test program is not filed with the division prior to the expiration of the 90 day approval, the program shall not be replaced and the program replacement criteria as stated in these procedures shall be applicable.

v. When an approved denomination change is made to an EGD which used or uses tokens, the licensee shall make necessary adjustments to the initial hopper fill listed on the Daily Fee Remittance Summary. Additionally, an adjustment shall be made to the Daily Fee Remittance Summary to reflect the change in the initial hopper fill each

time an EGD is taken off the floor or out of play. A final drop shall be made for that machine, including the hopper. The initial hopper load should be deducted to determine the final net drop for the device.

n. Randomness Events/Randomness Testing

i. Events in EGD's are occurrences of elements or particular combinations of elements which are available on the particular EGD.

ii. A random event has a given set of possible outcomes which has a given probability of occurrence called the distribution.

iii. Two events are called independent if the following conditions exist:

(a). the outcome of one event has no influence on the outcome of the other event;

(b). the outcome of one event does not affect the distribution of another event.

iv. An EGD shall be equipped with a random number generator to make the selection process. A selection process is considered random if the following specifications are met:

(a). the random number generator satisfies at least 99 percent confidence level using chi-squared analysis;

(b). the random number generator does not produce a measurable statistic with regard to producing patterns of occurrences. Each reel position is considered random if it meets at least the 99 percent confidence level with regard to the runs test or any similar pattern testing statistic.

(c). the random number generator produces numbers which are independently chosen.

x. Safety Requirements

i. Electrical and mechanical parts and design principles shall not subject a player to physical hazards.

ii. Spilling a conductive liquid on the EGD shall not create a safety hazard or alter the integrity of the EGD's performance.

iii. The power supply used in an EGD shall be designed to make minimum leakage of current in the event of an intentional or inadvertent disconnection of the alternate current power ground.

iv. A surge protector shall be installed on each EGD. Surge protection can be internal or external to the power supply.

v. A battery backup device shall be installed and capable of maintaining accuracy of required electronic meter information after power is disconnected from the EGD. The device shall be kept within the locked or sealed logic board compartment and be capable of sustaining the stored information for one hundred and eighty days.

vi. Electronic discharges. The following shall not subject the player to physical hazards:

(a) . electrical parts;

(b). mechanical parts; and

(c). design principles of the EGD and its component parts.

y. On and Off Switch. An on and off switch that controls the electrical current used to operate the EGD shall be located in an accessible place and within the interior of the EGD.

z. Power Supply Filter. EGD power supply filtering shall be sufficient to prevent disruption of the EGD by a repeated fluctuation of alternating current.

aa. Error Conditions and Automatic Clearing

i. EGD's shall be capable of detecting and displaying the following conditions:

- (a). power reset;
- (b). door open; and
- (c). inappropriate coin-in if the coin is not automatically returned to the player.

ii. The conditions listed above shall be automatically cleared by the EGD upon initiation of a new play sequence.

bb. Error Conditions; Clearing by Attendant

i. EGD's shall be capable of detecting and displaying the following error conditions which an attendant may clear:

- (a). coin-in jam;
- (b). coin-out jam;
- (c). hopper empty or timed-out;
- (d). RAM error;
- (e). hopper runaway or extra coin paid out;
- (f). program error;
- (g). reverse token-in;
- (h). reel spin error of any type, including a mis-index condition for rotating reels. The specific reel number shall be identified in the error indicator;

(i). low RAM battery, for batteries external to the RAM itself, or low power source.

ii. A description of EGD error codes and their meanings shall be affixed inside the EGD.

cc. Coin Acceptors

i. At least one electronic coin acceptor shall be installed in each EGD.

ii. All acceptors shall be approved by the division or the designated gaming laboratory.

iii. Coin acceptors shall be designed to accept designated coins and to reject others.

iv. The coin receiver on an EGD shall be designed to prevent the use of cheating methods, including, but not limited to:

- (a). slugging;
- (b). stringing; and
- (c). spooling.

v. Coins which are accepted but not credited to the current game shall be returned to the player by activation of the hopper or credited toward the next play of the EGD control program and shall be capable of handling rapidly fed coins so that frequent occurrences of this type are prevented.

vi. EGD's shall have suitable detectors for determining the direction and speed of the coin(s) travel in the receiver. If a coin traveling at improper speed or direction is detected, the EGD shall enter an error condition and display the error condition which shall require attendant intervention to clear.

dd. Bill Validators

i. EGD's may contain a bill validator that will accept the following:

- (a). \$1 bills;
- (b). \$5 bills;
- (c). \$10 bills;
- (d). \$20 bills;

(e). \$50 bills; and

(f). \$100 bills.

ii. The bill acceptors may be for single denomination or combination of denominations.

ee. Automatic Light Alarm

i. A light shall be installed on the top of the EGD that automatically illuminates when the door to the EGD is opened or associated equipment that may affect the operation of the EGD is exposed.

ff. Access to the Interior

i. The internal space of an EGD shall not be readily accessible when the door is closed.

ii. The following shall be in a separate locked or sealed area within the EGD's:

- (a). logic boards;
- (b). ROM;
- (c). RAM; and
- (d). program storage media.

iii. No access to the area described above is allowed without prior notification to the licensee's surveillance room.

iv. The division shall be allowed immediate access to the locked or sealed area. An eligible facility licensee shall maintain its copies of the keys to EGD's in accordance with the administrative rules and the licensee's system of internal controls. A licensee shall provide the division a master key to the door of an approved EGD, if so requested. Unauthorized tampering or entrance into the logic area without prior notification in accordance with this Subsection is grounds for enforcement action.

gg. Tape Sealed Areas. An EGD's logic boards and/or any program storage media in a locked area within the EGD shall be sealed with the division's security tape. The security tape shall be affixed by a division agent. The security tape may only be removed by, or with approval from, a division agent.

hh. Hardware Switches

a. No hardware switches may be installed which alter the pay tables or payout percentages in the operation of an EGD.

i. Hardware switches may be installed to control the following:

- (a). graphic routines;
- (b). speed of play;
- (c). sound; and
- (d). other approved cosmetic play features.

ii. Display of Rules of Play

i. The rules of play for EGD's shall be displayed on the face or screen of all EGD's. Rules of play shall be approved by the division or board prior to play.

ii. The division or board may reject the rules if they are:

- (a). incomplete;
- (b). confusing;
- (c). misleading; or
- (d). for any other reason stated by the division/board.

iii. Rules of play shall be kept under glass or another transparent substance and shall not be altered without prior approval from the division.

iv. Stickers or other removable devices shall not be placed on the EGD face unless their placement is approved by the division.

jj. Manual Jackpot Payout

i. Whenever a patron wins a jackpot that is not totally and automatically paid directly from the EGD, a slot attendant shall prepare and process according to the licensee's internal controls, a request for jackpot payout form which shall contain, at a minimum, the following information:

- (a). the EGD house number;
- (b). the denomination of the EGD;
- (c). number of coins played;
- (d). line of the payout;
- (e). combination of reel characteristics;
- (f). amount the machine paid, and
- (g). amount of the hand paid jackpot.

ii. If a jackpot is \$1,200.00 or greater in value, the following information shall be obtained by the slot attendant for preparation of a form W-2G:

- (a). name, physical address, and social security number of the patron;
- (b). amount of the jackpot; and
- (c). any other information required for completion of the form W-2G.

iii. On a three-part jackpot slip, the coin cashier preparing the payout shall record the following information:

- (a). the date and time during which the jackpot occurred;
- (b). the denomination;
- (c). the machine and asset number of the EGD on which the jackpot was registered.
- (d). the number of coins played;
- (e). the line of the combination;
- (f). the winning combination of reel characters constituting the jackpot;
- (g). the amount to be paid by the coin cashier in both numeric and alpha form; and,
- (h). the signature of the coin cashier, slot attendant and security officer.

iv. If the jackpot is over \$5,000.00 a surveillance photograph shall be taken of the winner and the payout form shall be signed by the slot manager or casino shift manager in addition to Subsection b. and c.

v. In addition to the other provisions of this Subsection, if the jackpot is over \$10,000.00 the slot attendant shall notify a slot technician who shall remove the electronic control board, or program storage media, and position the board or program storage media in a manner to allow a surveillance photograph to be taken showing the division security tape covering said program storage media.

vi. If the jackpot is \$100,000 or more, the licensee shall notify the division immediately. A division agent shall be present prior to the opening of the EGD. Surveillance shall constantly monitor the EGD until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic control board, or the program storage media shall be removed by a slot technician, and the program storage media shall be inspected and tested in a manner prescribed by the division. Upon completion of the jackpot payout transaction, the division agent shall reseal the electronic

control board or program storage media and ensure the replacement of the electronic board or program storage media.

kk. Manufacturer's Operating and Field Manuals and Procedures. A licensee shall comply with written guidelines and procedures concerning installations, modifications, and/or upgrades of components and associated equipment established by the manufacturer of an EGD, component, on-line system, software, and/or associated equipment unless otherwise approved in writing by the division/board, or if the guideline(s) and/or procedure(s) conflict with any portion of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:778 (April 2000).

§4210. Electronic Gaming Device Tournaments

A. EGD tournaments may be conducted by licensees, upon written approval by the division.

B. All tournament play shall be on machines which have been tested and approved by the division, and for which the tournament feature has been enabled.

C. All EGD's used in a single tournament shall utilize the same electronics and machine settings. Licensees shall utilize, and each device shall be equipped with an approved program which allows for tournament mode play to be enabled by a switch key (reset feature) and/or total replacement of the logic board, with an approved tournament board. Replacement of program storage media is not permissible for tournament play only. Form(s) as prescribed by the division are required to be submitted for each device used in tournament play when the nontournament logic board is removed. The licensee shall submit, in writing, procedures regarding the storage and security of the both tournament and nontournament boards when not in use.

D. EGD's enabled for tournament play shall not accept or pay out coins. The EGD's shall utilize credit points only.

E. Tournament credits shall have no cash value.

F. Tournament play shall not be credited to accounting or electronic (soft) meters of the EGD.

G. At the licensee's discretion, and in accordance with applicable laws and rules, the licensee may establish qualification or selection criteria to limit the eligibility of players in a tournament.

H. Rules of Tournament Play

1. The eligible facility licensee shall submit rules of tournament play to the division in accordance with Section 2953 or within such time period as the division may designate. The rules of play shall include, but are not limited to, the following:

- a. the amount of points, credits, and playing time players will begin with.
- b. the manner in which players will receive EGD assignments and how reassignments are to be handled.
- c. how players are eliminated from the tournament and how the winner or winners are to be determined.
- d. the number of EGD's each player will be allowed to play.
- e. the amount of entry fee for participating in the tournament.
- f. the number of prizes to be awarded.
- g. an exact description of each prize to be awarded.

h. any additional house rules governing play of the tournament.

i. any rules deemed necessary by the division or board to ensure compliance with this Chapter.

2. A licensee shall not permit any tournament to be played unless the rules of the tournament play have been approved, in writing, by the division or board.

3. The rules of tournament play shall be provided to all tournament players and each member of the public who requests a copy of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:783 (April 2000).

§4211. Duplication of Program Storage Media

A. Personnel and Certification

1. Only the licensee's director of slot operations, assistant director of slot operations, or the slot technical manager shall be allowed to duplicate program storage media.

2. The licensee shall provide to the division certified documentation, from the manufacturer or copyright holder of the program storage media which is being duplicated, stating that the duplication of the program storage media is authorized.

3. The licensee shall assume the responsibility of complying with all rules and regulations regarding copyright infringement. Program storage media protected by the manufacturer's federal copyright laws will not be duplicated for any reason or circumstance, unless approved otherwise by the manufacturer and/or the division.

4. Each duplicated program storage media shall be certified by the designated gaming laboratory's signature for that program storage media.

B. Required Documentation

1. Each Licensee shall maintain an program storage media duplication log which shall contain:

a. the name of the program storage media manufacturer and the program storage media identification number of each program storage media to be erased;

b. serial number of program storage media eraser and duplicator;

c. printed name and signature of individual performing the erasing and duplication of the program storage media;

d. identification number of the new program storage media;

e. the number of program storage media duplicated;

f. the date of the duplication;

g. machine number (source and destination);

h. reason for duplication; and

i. disposition of permanently removed program storage media.

2. The log shall be maintained on record for a period of 5 years.

3. Corporate internal auditors shall verify compliance with program storage media duplication procedures at least twice annually.

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached white adhesive label containing the following:

a. manufacturer name and serial number of the new program storage media;

b. designated gaming laboratory signature verification number;

c. date of duplication;

d. initials of personnel performing duplication.

D. Storage of Program Storage Media and Duplicator/Eraser

1. Program storage media duplication equipment shall be stored with the security department or other department approved by the division.

2. Equipment shall be release only to the director or assistant director of slot operations.

3. At no time shall the director or assistant director of slot operations leave unattended the program storage media duplication equipment.

4. Program storage media duplication equipment shall only be released from the security department, or other department approved by the division, for a period not to exceed four hours within a 24 hour period.

5. An equipment control log shall be maintained by the licensee and shall include the following:

a. Date, time, name of employee taking possession of, or returning equipment, and name of Security officer taking possession of, or releasing equipment.

6. All program storage media shall be kept in a secure area and the licensee shall maintain an inventory log of all program storage media.

E. Internal Controls

1. The licensee shall adopt, and have approved by the division, internal controls which are in compliance with this Section prior to duplicating program storage media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:784 (April 2000).

§4212. Marking, Registration, and Distribution of Gaming Devices

A. No one, including a licensee, permittee, manufacturer or supplier may ship or otherwise transfer a gaming device into this state, out of this state, or within this state unless:

1. A serial number (which shall be the same number as given the device pursuant to the provisions of §15 U.S.C. 1173 of the Gaming Device Act of 1962) permanently stamped or engraved in lettering no smaller than five millimeters on the metal frame or other permanent component of the EGD and on a removable metal plate attached to the cabinet of the EGD; and

2. A manufacturer, supplier, or licensee shall file forms as prescribed by the division/board before receiving authorization to ship a device for use in the Louisiana pari-mutuel gaming industry.

3. Each manufacturer or supplier shall keep a written list of the date of each distribution, the serial numbers of the devices, the division approval number, and the name, state of residence, addresses and telephone numbers of the person to whom the gaming devices have been distributed and shall provide such list to the division immediately upon request.

4. A registration fee of \$100.00 per device shall be paid by company check, money order, or certified check made payable to state of Louisiana, Department of Public Safety. This fee is not required on devices which are

currently registered with the division and display a valid registration certificate. Upon receipt of the appropriate shipping forms and fees, the division shall issue a written authorization to ship for approved devices. This fee is applicable only to gaming devices destined for use in Louisiana by licensed eligible facility entities or suppliers.

5. Prior to actual receipt of the shipment, the licensee shall notify the division of the arrival. The division shall require that the shipper's manifest or other shipping documents are verified against the letter of authorization for that shipment. The shipment shall also have been sealed at the point of origin, or the last point of shipment. The seal number shall be recorded on the shipping documents and attached to the licensee's copy of the letter of authorization.

6. The storage of the shipment, once properly received, shall be in a containment area that is secure from any other equipment. There shall be a dual key locking system for the containment area. The containment area shall have been inspected and approved in writing by the division prior to any EGD storage. All electronic control boards and/or program storage media shall be securely stored in a separate containment area from the EGD's. The containment area shall have been inspected and approved in writing by the division prior to any electronic control board and/or program storage media storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:784 (April 2000).

§4213. Approval to Sell or Disposal of Gaming Devices

No gaming device registered by the division shall be destroyed, scrapped, or otherwise disassembled without prior written approval of the division. A licensee shall not sell or deliver a gaming device to a person other than its affiliated companies or a permitted manufacturer or supplier without prior written approval of the division/board. Applications for approval to sell or dispose of a registered gaming device shall be made, processed, and determined in such manner and using such forms as the division/board may prescribe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:785 (April 2000).

§4214. Maintenance of Electronic Gaming Devices

A licensee shall not alter the operation of an approved EGD except as provide otherwise in the board's rules and shall maintain the EGD's as required by this Chapter. Each licensee shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the division upon request. The written list of repairs for all EGD's shall be kept in a "maintenance log book" in the slot tech office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:785 (April 2000).

§4215. Analysis of Questioned Electronic Gaming Devices

A. If the operation of any EGD is questioned by any licensee, patron or an agent of the division and the question cannot be resolved, the questioned device will be examined in the presence of an agent of the division and a representative of the licensee. If the malfunction can not be cleared by other means to the satisfaction of the division, the patron and the licensee, the EGD will be subjected to an program storage media memory test to verify "signature" comparison by the division.

B. In the event that the malfunction can not be determined and corrected by this testing, the EGD may be removed from service and secured in a remote, locked compartment. The EGD may then be transported to the designated gaming laboratory selected by the division or board where the device shall be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis shall be borne by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:785 (April 2000).

§4216. Summary Suspension of Approval of Electronic Gaming Devices

The division or board may issue an order suspending approval of an EGD if it is determined that the EGD does not operate in the manner certified by the designated gaming laboratory pursuant to this Chapter. The division/board after issuing an order may thereafter seal or seize all models of that EGD not in compliance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:785 (April 2000).

§4217. Seizure and Removal of Electronic Gaming Equipment and Devices

A. EGD's and associated equipment may be summarily seized by the division. Whenever the division seizes and removes EGD's and/or associated equipment:

1. an inventory of the equipment or EGD's seized will be made by the division/board, identifying all such equipment or EGD's as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or EGD's will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the licensee or permittee will be notified in writing by the division at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or EGD is to be impounded. A copy of the inventory of the seized equipment or EGD will be provided to the licensee or permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:785 (April 2000).

§4218. Seized Equipment and EGD's as Evidence

A. All gaming equipment and EGD's seized by the division shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the division upon their seizure and may be disposed of by the division, which disposition shall be documented as to date and manner of disposal.

2. the division shall notify by certified mail each known claimant of a cheating device that the claimant has ten days from the date of the notice within which to file a written claim with the division to contest the characterization of the property as a cheating device.

3. failure of a claimant to timely file a claim as provided in Paragraph 2 above will result in the division's pursuit of the destruction of property.

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within 15 days after final determination.

5. items seized for inspection or examination may be returned by the division/board without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:786 (April 2000).

§4219. Approval of Associated Equipment; Applications and Procedures

A. A manufacturer or supplier of associated equipment and/or nongaming products shall not distribute associated equipment and/or nongaming products unless such manufacturer and/or supplier has been approved by the division or board. Applications for approval of associated equipment and/or nongaming products shall be made and processed in such manner and using such forms as the division or board may prescribe. Each application shall include, in addition to such other items or information as the division or board may require:

1. the name, permanent address, social security number or federal tax identification number of the manufacturer or supplier of associated equipment and nongaming products unless the manufacturer or supplier is currently permitted by the division or board. If the manufacturer or supplier of associated equipment and nongaming products is a corporation, the names, permanent addresses, social security numbers, and driver's license numbers of the directors and officers shall be included. If the manufacturer or supplier of associated equipment and nongaming products is a partnership, the names, permanent addresses, social security numbers, driver's license numbers, and partnership interest of the partners shall be included. If social security numbers or driver's license numbers are not available, the birth date of the partners may be substituted;

2. a complete, comprehensive and technically accurate description and explanation in both technical and nontechnical language of the equipment and its intended usage, signed under penalty of perjury;

3. detailed operating procedures; and

4. details of all tests performed and the standards under which such tests were performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:786 (April 2000).

Chapter 43. Specifications for Gaming Tokens and Associated Equipment

§4301. Approval of Tokens; Applications and Procedures

A. A licensee shall not issue any tokens for use at the eligible facility, or sell or redeem any such tokens, unless the tokens have been approved in writing by the division. A licensee shall not issue any tokens for use at the eligible facility, or sell or redeem any such tokens, that are modifications of tokens previously approved by the division, unless the modifications have been approved in writing by the division.

B. Applications for approval of tokens, and modifications to previously approved tokens must be made, processed, and determined in such manner as the division may prescribe. Only licensees may apply for such approval. Each application must include, in addition to such other items or information as the division may require:

1. an exact drawing, in color or in black and white, of each side and the edge of the proposed token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed token in each dimension;

2. written specifications for the proposed tokens;

3. the name and address of the manufacturer; and

4. the licensee's intended use for the proposed tokens.

C. If, after receiving and reviewing the items and information described in Subsection B, the division is satisfied that the proposed tokens conform with the requirements of this Chapter, the division shall notify the licensee in writing and shall request, and the licensee shall thereupon submit, a sample of the proposed tokens in final, manufactured form. If the division is satisfied that the sample conforms with the requirements of this regulation and with the information submitted with the licensee's application, the division shall approve the proposed tokens and notify the licensee in writing. As a condition of approval of issued for use at the eligible facility the division may prohibit the licensee from using the tokens other than at specified games. The division may retain the sample tokens submitted pursuant to this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:786 (April 2000).

§4303. Specifications for Tokens

A. Tokens must be designed, manufactured, and constructed in compliance with all applicable statutes, regulations, and policies of the United States, Louisiana, and other states, and so as to prevent counterfeiting of the tokens to the extent reasonably possible. Tokens must not resemble any current or past coinage of the United States or any other nation.

B. In addition to such other specifications as the division may approve:

1. the name of the issuing gaming establishment must be inscribed on each side of each token, and the city or other

locality and the state where the establishment is located must be inscribed on at least one side of each token;

2. the value of the token must be inscribed on each side of each token;

3. the manufacturer's name or a distinctive logo or other mark identifying the manufacturer must be inscribed on at least one side of each token; and

C. The names of the city or other locality and the state where the establishment is located must be inscribed on at least one side of each token unless the division finds, after application by a licensee, that such an inscription is not necessary because:

1. the name of the issuing establishment is unique to one readily identifiable establishment in all gaming jurisdictions; or

2. the inclusion of the city or other locality and the state is not necessary or beneficial for any regulatory purpose relating to the applicant.

D. Any request submitted pursuant to Subsection C must be signed by the chief executive officer of the licensee.

E. Any approval by the division for the deletion of such an inscription shall be in writing and be limited to that period of time in which the name of the licensee is limited to one establishment and conditioned so that it may be withdrawn in the future if the division determines that the deletion results in confusion with the tokens of another establishment or if such inclusion is deemed necessary or beneficial for any regulatory purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:786 (April 2000).

§4305. Specifications for Tokens

A. Unless the division approves otherwise, tokens must be disk-shaped and must measure as follows:

1. \$0.25 tokens must be from 0.983 through 0.989 inches in diameter, from 0.064 through 0.070 inches thick, and if the token has reeds or serrations on its edges, the number of reeds or serrations must not exceed 100;

2. \$1 denomination tokens must be from 1.459 through 1.474 inches in diameter, from 0.095 through 0.115 inch thick, and, if the token has reeds or serrations on its edges, the number of reeds or serrations must not exceed 150;

3. \$5 denomination tokens must be 1.75 inches in diameter, from 0.115 through 0.135 inch thick, and, if the token has reeds or serrations on its edges, the number of reeds or serrations must not exceed 175;

4. \$25 denomination tokens must be larger than 1.75 inches but no larger than 1.95 inches in diameter, except that such tokens may be 1.654 inches (42 millimeters) in diameter if made of 99.9 percent pure silver, must be 0.10 inch thick, and, if the token has reeds or serrations on its edges, the number of reeds or serrations must not exceed 200; and

5. tokens of other denominations must have such measurements and edge reeds or serrations as the division may approve or require.

B. Tokens must not be manufactured from material possessing sufficient magnetic properties so as to be accepted by a coin mechanism, other than that of an electronic gaming device.

C. Tokens must not be manufactured from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core, nor from a copper-based material, unless the total of zinc, nickel, aluminum, magnesium, and other alloying materials is at least 20 percent of the token's weight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:787 (April 2000).

§4307. Use of Tokens

A. A licensee that uses tokens at its gaming establishment shall:

1. comply with all applicable statutes, regulations, and policies of Louisiana and of the United States pertaining to tokens;

2. sell tokens only to patrons of its gaming establishment and only at their request;

3. promptly redeem its own tokens from its patrons;

4. post conspicuous signs at its establishment notifying patrons that federal law prohibits the use of the licensee's tokens outside the establishment for any monetary purpose whatever; and

5. take reasonable steps, including examining tokens and segregating those issued by other licensees or gaming operators to prevent sales to its patrons of tokens issued by another gaming operator.

B. A licensee shall not accept tokens as payment for any goods or services offered at the licensee's gaming establishment with the exception of the specific use for which the tokens were issued, and shall not give tokens as change in any other nongaming transaction.

C. A licensee shall not redeem its tokens if presented by a person who the licensee knows or reasonably should know is not a patron of its gaming establishment, except that a licensee shall promptly redeem its tokens if presented by:

1. another licensee, or licensed gaming operator who represents that it redeemed the tokens from its patrons or received them unknowingly, inadvertently, or unavoidably;

2. an employee of the licensee who presents the tokens in the normal course of employment; or

3. an employee of the licensee who received the token as gratuity or tip.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:787 (April 2000).

§4309. Receipt of Gaming Tokens from Manufacturer or Supplier

A. When tokens are received from the manufacturer or supplier thereof, they shall be opened and checked by at least two employees of the licensee from different departments. Any deviation between the invoice accompanying the tokens and the actual tokens received or any defects found in such tokens shall be reported promptly to the division. An agent of the division will be notified of the time of delivery of any tokens to the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:787 (April 2000).

§4311. Redemption and Disposal of Discontinued Tokens

A. A licensee that permanently removes from use or replaces approved tokens at its gaming establishment, or that ceases gaming operations, whether because of closure or sale of the eligible facility or any other reason, shall prepare a plan for redeeming discontinued tokens that remain outstanding at the time of discontinuance. The licensee shall submit the plan in writing to the division not later than thirty days before the proposed removal, replacement, sale, or closure, unless the closure or other cause for discontinuance of the tokens cannot reasonably be anticipated, in which event the licensee must submit the plan as soon as reasonably practicable. The division may approve the plan or require reasonable modifications as a condition of approval. Upon approval of the plan, the licensee shall implement the plan as approved.

B. In addition to such other reasonable provision's as the division may approve or require, the plan shall provide for:

1. redemption of outstanding or discontinued tokens, in accordance with this Subsection, for at least 120 days after the removal or replacement of the tokens or for at least one hundred twenty days after operations cease, as the case may be, or for such longer or shorter period as the division may for good cause approve or require;

2. redemption of the tokens at the premises of the eligible facility or at such other location as the division may approve;

3. publication of notice of the discontinuance of the tokens and of the redemption and the pertinent times and locations in at least two newspapers of general circulation in Louisiana at least twice during each week of the redemption period, subject to the division's approval of the form of the notice, the newspapers selected for publication, and the specific days of publication;

4. conspicuous posting of the notice described in Subsection B.3 at the eligible facility or other redemption location;

5. destruction or such other disposition of the discontinued tokens as the division may approve or require; and

6. such destruction must be to the satisfaction of the division .

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:788 (April 2000).

§4313. Destruction of Counterfeit Tokens

A. As used in this Section, "counterfeit tokens" means any token-like objects that have not been approved pursuant to this Chapter, including objects commonly referred to as "slugs," but not including coins of the United States or any other nation.

B. Unless a court of competent jurisdiction orders otherwise in a particular case, licensees shall destroy or otherwise dispose of tokens discovered at their establishments in such manner as the division may approve or require.

C. Unless a court of competent jurisdiction orders otherwise in a particular case, licensees may dispose of coins of the United States or any other nation discovered to have

been unlawfully used at their establishments by including them in their coin inventories or, in the case of foreign coins, by exchanging them for United States currency or coins and including same in their currency or coin inventories, or by disposing of them in any other lawful manner.

D. Each licensee shall record, in addition to such other information as the division may require:

1. the number and denominations, actual and purported, of the coins and tokens destroyed or otherwise disposed of pursuant to this Section;

2. the month during which they were discovered;

3. the date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank, exchange company, or other business or person at which or with whom the coins are exchanged; and

4. the names of persons carrying out the destruction of other disposition on behalf of the licensee.

E. Each licensee shall maintain each record required by this Section for five years unless the division approves a lesser time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:788 (April 2000).

Chapter 45. Labor Organizations

§4501. Labor Organization Registration Required

A. Each labor organization, union or affiliate representing or seeking to represent employees regulated by the board and employed by a licensee, shall register with the division annually.

B. The division may exempt any labor organization, union or affiliate from registration requirements where it is found that such labor organization, union or affiliate:

1. is not the certified bargaining representative of any employee regulated by the board or employed by a licensee; and

2. is neither involved nor seeking to be involved actively, directly, or substantially in the control or direction of the representation of any such employee.

3. Such exemption shall be subject to revocation upon disclosure of information which indicates that the affiliate does not or no longer meets the standards for exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:788 (April 2000).

§4503. Registration Statement

A. In order to register, a labor organization, union or affiliate shall file with the division a "Labor Organization Registration Statement." These requirements shall be completed and approved by the division prior to the labor organization becoming the certified bargaining representative for employees occupationally licensed to work for a licensed operator.

B. Said statement shall be in the form prescribed by the board and shall include, without limitation, the following:

1. the names of all labor organizations affiliated with the registrant;

2. information as to whether the registrant is involved or seeking to be involved actively, directly or substantially in

the control or direction of the representation of any employee regulated by the board and employed by a licensee;

3. information as to whether the registrant holds, directly or indirectly, any financial interest whatsoever in the eligible facility whose employees it represents;

4. the names of any pension and welfare systems maintained by the registrant and all officers and agents of such systems;

5. the names of all officers, agents and principal employees of the registrant; and

6. all written assurances, consents, waivers and other documentation required of a registrant by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:788 (April 2000).

§4505. Registration Renewal

A labor organization registration shall be effective for one year. Any such registration may be renewed upon filing of an updated "Labor Organization Registration Statement" no later than 120 days prior to the expiration of the current registration. The division shall act upon such application for renewal no later than 30 days prior to the date of expiration of the current registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:789 (April 2000).

§4507. Continuing Duty to Disclose

Every registered labor organization shall be under a continuing duty to promptly disclose any change in the information contained in the "Labor Organization Registration Statement" or otherwise requested by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:789 (April 2000).

§4509. Federal Reports Exception

Notwithstanding the reporting requirements imposed by the regulations of the board, no labor organization, union, affiliate or person shall be required to furnish any information which is included in a report filed by any labor organization, union, affiliate or person with the secretary of labor, pursuant to 29 U.S.C., Section 431, et seq. (Labor-Management Reporting and Disclosure Act) if a copy of such report, or if the portion thereof containing such information, is furnished to the division pursuant to the aforesaid federal provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:789 (April 2000).

§4511. Qualification of Officers, Agent, and Principal Employees

Every officer, agent and principal employee of a labor organization, union or affiliate required to register with the

division shall be qualified in accordance with criteria contained in these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:789 (April 2000).

§4513. Qualification Procedure

A. In order to be qualified, every officer, agent and principal employee of a labor organization, union or affiliate required to register with the division shall file with the division a "Labor Organization Individual Disclosure Form," which shall be completed, signed and filed in accordance with the requirements of this Chapter, provided, however, that such a form need not be filed by an officer of a national or international labor organization where that officer exercises no authority, discretion or influence over the operation of such labor organization with regard to any employment matter relating to employees licensed under the act and employed by a licensee; and provided further, that any such officer of a national or international labor organization may be directed by the division to file a "Labor Organization Individual Disclosure Form" or to provide any other information in the same manner and the same extent as may be required of any other officer of a labor organization which is required to register under this Chapter.

B. Each officer, agent or principal employee required to file, a "labor organization individual disclosure form" shall do so initially at the time the pertinent labor organization, union or affiliate applies or should apply for registration or at the time the individual is elected, appointed or hired, whichever is later.

C. Following an initial finding of qualification, each qualified individual who has filed an initial "Labor Organization Individual Disclosure Form" shall annually file with the division a properly completed, updated "Labor Organization Individual Disclosure Form."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:789 (April 2000).

§4515. Waiver of Disqualification Criteria

Notwithstanding the qualification requirements as to any such officer, agent or principal employee, the division may waive any disqualification criteria upon a finding that the interests of justice so require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:789 (April 2000).

§4517. Interest in Operator's License Prohibited

Neither a labor organization, union, or affiliate nor its officers, and agents not otherwise individually licensed under the act and employed by a licensed operator may hold any financial interest whatsoever in the licensee whose employees they represent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:789 (April 2000).

§4519. Failure to Comply; Consequences

A. No labor organization, union or affiliate required to register with the division shall receive any dues from or on behalf of or administer any pension, welfare funds from or on behalf of any licensed employee and employed by a licensee or its agent:

1. if the said labor organization, union, or affiliate shall fail to properly register with the division or provide all information requested by the division in accordance with the provisions of these regulations;

2. if any officer, agent or principal employee of such labor organization, union, or affiliate shall fail to qualify in accordance with the provisions of these regulations; or

3. if the said labor organization, union, affiliate or any officer or agent thereof shall hold a prohibited interest in a licensee.

B. Nothing herein shall be construed to limit the right of the division to impose any sanctions or take any action authorized by these regulations and the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:790 (April 2000).

Hillary J. Crain
Chairman

0004#035

RULE

**Department of Social Services
Office of Community Services**

Central Registry Child Abuse and Neglect Cases
(LAC 67:V.1103)

The Department of Social Services, Office of Community Services, amends the rule entitled a "Central Registry Child Abuse/Neglect Cases" published in the *Louisiana Register*, Vol. 23 No. 5, May 20, 1997, page 590. This rule is mandated by R.S. 46:56(F)(10).

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1103. State Central Registry

A. ...

1. - 2. ...

3. The Office of Community Services will disclose limited information on a State Central Registry records check when requested by an employer or prospective employer of a person who will be exercising supervisory authority over that employer's minor children or other dependent person as part of that person's employment as a caregiver. The written request for the information will be a signed and notarized request form which must be signed by the employee and employer. The form will be provided upon request from the employer, prospective employer, employee or prospective employee. The information which will be disclosed will include whether or not a record of a valid finding of abuse or neglect was found which identifies the

employee or prospective employee as a perpetrator. The information will be disclosed to the employer or prospective employer.

4. The Office of Community Services will disclose information in records of reports of child abuse or neglect when requested in writing from persons cited in LA R.S. 46:56 (F)(10)(a). The information to be disclosed includes whether or not the agency has a report which has been determined to be valid, the status of the investigation, the determination made by the department and any action taken by the agency. Action taken by the agency will include the following: case closed, referred for services, continued services, and child taken into custody.

B. ...

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:56 (F)(10), the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Articles 615 and 616, and Title XII, Adoption of Children, Chapter 2, Article 1173, and R.S.14:403(H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:199 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000).

J. Renea Austin-Duffin
Secretary

0004#040

RULE

**Department of Transportation and Development
Highways/Engineering**

Design-Build Contracting Pilot Program
(LAC 70:III.Chapter 27)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Transportation and Development hereby promulgates a rule entitled "Department of Transportation and Development Design-Build Contracting Pilot Program", in accordance with R.S. 48:250.2. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 27. DOTD Design-Build Contracting Pilot Program

§2701. Purpose

A. The following rules and procedures are adopted by the Louisiana Department of Transportation and Development pursuant to R.S. 48:250.2. The purpose of the pilot program is to study and evaluate the feasibility of combining the design and construction phases of a transportation project into a single contract arrangement.

B. The pilot program will be limited to one contract not to exceed five million (\$5,000,000.00) dollars. Should experience with the pilot program result in further pursuit of the Design-Build concept, the size, complexity and cost of future projects will likely far exceed the limitations placed upon the pilot program. Some of the procedures and requirements described are intended to apply to larger and more complex projects and are included for the purpose of

consideration by all concerned, including design/construction service providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:790 (April 2000).

§2703. Qualification Requirements for Bidders

A. To qualify for Design/Build contracting with the Department, a single legal entity must possess professional engineering design capability, as well as qualified construction contracting capability.

B. The Department's standard technical qualification requirements for firms providing professional engineering services, set forth in R.S. 48:290, shall apply to the components providing design services.

C. The standard contractor qualifications requirements, set forth in R. S. 37:2150-2164 and the current rules and regulations of the State of Louisiana Licensing Board for Contractors, shall apply to the component providing construction services within or utilized by the Design-Build firm, based upon the applicable categories for the specific project.

D. All referenced qualification requirements for each component must be in place prior to the closing date for the submittal of letters of interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:791 (April 2000).

§2705. Public Announcement Procedures

A. A notice of intent to select a firm for Design-Build services and to request letters of interest and statements of qualifications from qualified firm/teams shall be distributed:

1. through advertisement in the Daily Journal of Commerce;
2. through advertisement in the Baton Rouge Advocate;
3. by appearance on the Department's Internet Home Page; and
4. by means of other newspapers, trade journals, and other forms of media which may be appropriate for specialty services and to insure adequate response.

B. Notices of intent shall be advertised a minimum of thirty days prior to the deadline for receipt of responses.

C. The notice of intent will contain a brief description of the project and required scope of services and sufficient information for design/construction firms to determine their interest and to submit a letter of interest and statement of qualifications.

D. If the number of responses received is inadequate, the notice of intent may be re-advertised using additional media or publications in an attempt to get additional responses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:791 (April 2000).

§2707. Requirements of Letters of Interest by Competitors for the Design-Build Contract

A. All required information will be identified in the notice of intent and in the standard response forms provided by the Department. The notice will include statements of

qualification by credential and experience of design team members for the areas of expertise specific to the project and statements of qualification by experience and resources of the construction team component.

B. The completed response form, with any other required information, must be transmitted to the Department by the responding firm prior to the deadline shown in the notice of intent.

C. Responses which do not meet all of the requirements provided for in the notice of intent will not be considered. The Department shall consider false or misrepresented information furnished in response to a notice of intent as grounds for rejection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:791 (April 2000).

§2709. Criteria and Procedures for Choosing a Short List from Responding Firms

A. A primary evaluation committee, with membership as defined in R.S. 48:291(A), will evaluate the responses to the Notice of Intent.

B. The general criteria to be used by the evaluation committee in evaluating responses to a notice of intent for Design-Build services will apply to both the design entity and the construction entity of any responding firm or team as follows:

1. experience, of both the firm and of key personnel, as related to the project under consideration;
2. past performance on Department projects; and
3. any project-specific criteria as may apply to project needs.

C. The primary evaluation committee will evaluate the responding firms or teams on the basis of the above criteria, and will select a short list of not fewer than three nor more than five of the highest rated firms.

D. The selected firms will be invited to submit a detailed technical and cost proposal for the Design-Build project.

E. At its discretion, the primary committee may be assisted by other Department personnel, but it will not consider recommendations by others in its evaluation of the firms' qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:791 (April 2000).

§2710. Requirements for Bid Proposals by Competitors for Design-Build Contracts

A. Depending upon the complexity of the project and the degree of flexibility in approach to design and/or construction method, the specific requirements of the technical proposal will be identified to the firms making the short list by means of a "Scope of Services Package".

B. Generally, the technical proposal will include the following:

1. discussions of design strategy and preliminary design concepts;
2. construction sequencing, technique, materials and methods;
3. a time line for beginning and completion of all phases of work; and

4. a lump sum cost for all services; all in fulfillment of the requirements and within the constraints of the "Scope of Services Package".

5. for more complex projects and those with scopes which permit flexibility and innovation in design and construction approach, the Department will compensate all short-listed firms for the expense of preparing the technical proposal. The amount of compensation will be predetermined by the Department, and will be made known to the firm when it is notified of selection to the short list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:791 (April 2000).

§2711. Composition and Appointment by the Secretary to the Technical Review Committee Grading and Judging the Technical Proposals for Ranking and Recommendation to the Chief Engineer

A. The primary evaluation committee includes representatives from the following divisions of the Department:

1. Construction
2. Road Design
3. Bridge Design
4. Planning

B. With the approval of the Chief Engineer, the committee will assign a Project Coordinator who will become a member of the Technical Review Committee for the project.

C. The Technical Review Committee (with Project Coordinator) will identify, depending upon the characteristics of the project, specific technical elements to be included in the Technical Score, and will choose, with the approval of the Chief Engineer, additional committee members to score each technical element.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:792 (April 2000).

§2713. Selection and Process of Award by the Chief Engineer and Execution of the Design-Build Contract by the Secretary for a Stipulated Sum

A. Adjusted Score

1. An adjusted score approach will be used to determine the winning proposal.

2. The adjusted score will typically be determined from three components:

- a. the technical score determined by the Technical Review Committee;
- b. the time value, consisting of the product of the proposed contract time (days) and the value-per-day (dollars) established by the Department and included in the "Scope of Services Package"; and
- c. the price proposal.

3. The adjusted score will be the sum of the time value and price proposal divided by the technical score. The selected proposal will be the one with the lowest

adjusted score. The components of the adjusted score are discussed in more detail as follows.

B. Technical Score

1. Weighting factors may be assigned to each element, depending upon its relative magnitude or significance to the overall project. Each Technical Review Committee member will rate his assigned element for the proposal from each of the firms on the short list and will submit his scores to the chairman of the Technical Review Committee.

2. The price bid will not be made known to the Technical Review Committee during the scoring process.

3. The chairman will adjust the scores for any applicable weighting factors and will determine the total Technical Score for each proposal.

C. Time Value

1. The Design/Build process will normally include a bid adjustment for the value of time. This adjustment will be based upon the firm's proposed number of days to complete the project multiplied by the value per day established by the Department (number of days times \$/day = price proposal adjustment (increase)).

2. This adjustment will be used for selection purposes only and shall not affect the Department's liquidated damages schedule or constitute an incentive/disincentive to the contract.

3. Adjusted Score

a. The Adjusted Score for each technical proposal will be determined by the formula:

$$\text{Adjusted Score} = (\text{Price Bid} + \text{Time Value}) / \text{Technical Score}$$

b. If the Time Value is not used, the Adjusted Score will be:

$$\text{Adjusted Score} = \text{Price Bid} / \text{Technical Score}$$

c. The winning proposal will be the one with the lowest Adjusted Score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:792 (April 2000).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

0004#054

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Reef Fish Daily Take, Possession and Size Limits
(LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.335, changing the minimum size limit for the harvest of red snapper. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:326.1, and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Reef Fish Daily Take, Possession and Size Limits Set by Commission

A. - G. ...

H. Species	Minimum Size Limits
1. Red Snapper	16 inches total length (Recreational) 15 inches total length (Commercial)

H.2. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000).

James H. Jenkins, Jr.
Secretary

0004#042

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Pet Turtles (LAC 7:XXI.Chapter 23)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry proposes to amend regulations regarding the requirements for the operation and licensing for the farming and selling of Louisiana pet turtles.

The Department of Agriculture and Forestry is amending these rules and regulations to insure that pet turtle farmers upgrade their facilities to assist the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control *Salmonella spp.* These rules comply with and are enabled by R.S. 3:2358.2.

No preamble concerning the proposed rules is available.

Title 7

Agriculture and Animals

Part XXI. Diseases of Animals

Chapter 23. Pet Turtles

§2301. Definitions

In addition to the definitions listed below, the definitions in R.S. 3:2358.3 shall apply to these regulations.

Agent—an authorized representative of the Department of Agriculture and Forestry.

Approved Antibiotic—an antibiotic approved by the Department of Agriculture and Forestry for use in the Egg Immersion Method.

Approved Antibiotic Solution—a dissolved antibiotic at a concentration approved by the Department of Agriculture and Forestry for use in the Egg Immersion Method.

Bactericide—any organic or inorganic substance, chemical, or compound that has the capacity to kill microorganisms.

Licensed Pet Turtle Farmer—a Louisiana individual, partnership, corporation or entity engaged in the collection, hatching, sale or distribution of turtles or turtle eggs using the Egg Immersion Method and who has been licensed by the Department of Agriculture and Forestry.

Chlorine Solution—a solution of chlorine at a concentration approved by the Department of Agriculture and Forestry.

Department—the Department of Agriculture and Forestry.

Department-issued Guidelines—a document provided periodically by the Department of Agriculture and Forestry setting forth detailed procedures designed to implement these regulations.

Dip Solution—an approved antibiotic solution as defined above.

Document—any form or document deemed necessary by the department for the operation of a Louisiana Pet Turtle Farm.

Egg Immersion Method—a sanitization process derived from the Siebeling method developed by Dr. Ronald J. Siebeling and approved by the department whereby pet turtle eggs are cleaned, disinfected and treated with an approved antibiotic solution in order to render the hatchling free from Salmonella or other bacteria harmful to humans or other pet turtles.

Egg Washing Machine—a machine intended for the washing of turtle eggs, or modified from a machine intended for the washing of eggs of commercial poultry.

Exporter—a person who is licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Farmer-Exporter—a licensed pet turtle farmer that is also licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Garasol—an antibiotic (Gentamicin sulfate) dissolved in water to give a concentration of 1,000 ppm or a concentration as approved by the Department of Agriculture and Forestry.

Laboratory—a certified laboratory as defined in R.S. 3:2358.3 and which employs at least one microbiologist.

Pet Turtle—a turtle with a carapace length of less than 4 inches that originates from a Louisiana pet turtle farm operated by a licensed pet turtle farmer.

Pet Turtle Farm—any area of land or water used to breed, raise or keep pet turtles.

Quarantined Area—any designated area or premises where pet turtle eggs or hatchlings are stored, processed or hatched which has been designated as quarantined by a Louisiana licensed, accredited and department-approved veterinarian due to a finding of contamination in a group or lot by Salmonella, Arizona or other bacteria harmful to other turtles or humans.

Turtle Lot—any amount of pet turtles or pet turtle eggs up to 20,000 in number. The term turtle lot may be used interchangeably with the term turtle group, group of turtles, or group of turtle eggs.

Turtles—any animals commonly known as turtles, tortoises, terrapins and all other animals of the order Testudinata, class Reptilia except marine species (families Dermochelidae and Cheloniidae.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2302. Facilities

A. Effective January 1, 2001, all applicants for initial licensure as licensed pet turtle farmers shall be required to meet, prior to licensure, all standards of construction and operations established by these rules and regulations.

B. All licensed pet turtle farmers that are licensed prior to January 1, 2001, shall be required to meet all standards of construction and operation established by these rules and regulations no later than January 1, 2002.

C. Each facility operated by a licensed pet turtle farmer shall be of sufficient size to contain no less than the following: turtle pond(s), turtle laying area, egg washing area, egg treatment area, hatching area, holding or post-hatching area, and inventory storage area.

D. Each facility shall possess hot and cold water, hand washing facilities, cooling and ventilation capability, be free of rodents and pests, be properly disinfected, utilize stainless steel or non-porous tables, buckets and baskets and have access to restroom facilities.

E. The physical structure shall consist of a free-standing building that is used only for the washing, treating, hatching, incubating, raising, shipping or holding of turtles or turtle eggs. Such building shall be separate and apart from the pond area and the egg laying area. No business activity other than the activities associated with the raising, treating, hatching, storing and marketing of turtles or turtle eggs shall be conducted within the confines of the building designated for turtle raising, treating, hatching, storing and marketing.

F. All floors in the washing or treating areas shall consist of concrete or non-porous covering with drainage sufficient to prevent the accumulation of water. All surfaces in the washing or treating areas which come in contact with turtles or turtle eggs shall be non-porous.

G. All washing areas and treating areas shall be well lighted and ventilated.

H. The hatching area shall be an identifiable room in which the temperature can be maintained and controlled.

I. The holding or post-hatching area shall be large enough to accommodate all designated groups of turtles that have not been sold. Lighting, ventilation and cooling shall be such so as to insure humane treatment of the turtles.

J. The turtle production area (ponds and laying areas) shall be free of debris, trash and offensive odors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2303. Monitoring of Turtle Farms for Safety and Sanitization

A. State-employed veterinarians shall inspect the premises of licensed pet turtle farmers, including those areas involved in the washing, incubation and hatching of turtles, or other operations. At least one inspection shall be performed prior to the start of each egg laying season. Recommendations shall be made to farmers to ensure compliance with these regulations. At the time of inspection, state-employed veterinarians or their designees may randomly select eggs or turtles for submission to a laboratory for microbiological examination. The inspections shall be made to insure the following.

1. The egg immersion method of egg collection and sanitization is being conducted properly and is in accordance with procedures issued by the department.

2. All equipment used in the egg immersion method shall be clean and in working order.

3. Vacuum tanks used for the egg immersion method shall be airtight and constructed of smooth-finished material to facilitate decontamination.

4. The egg immersion method shall be performed in a designated building. Due care shall be applied to maintaining isolation of this area. Operators shall prevent spillage or transfer of the antibiotic solution used in the egg immersion method to any other area or the environment outside of the building designated for the egg immersion method.

5. Persons implementing the egg immersion method shall wash their hands in disinfectant and remove the garments recommended in department-issued guidelines prior to leaving the isolated area where the method is being performed.

B. State-employed veterinarians shall inspect the premises of turtle farmers to insure that no turtles which have been treated by the egg immersion method or any other method utilizing antibiotics shall be introduced into the environment.

C. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that no turtles or eggs which have been treated by the egg immersion method or any other method utilizing antibiotics are used to stock or restock the ponds of a licensed pet turtle farmer or non-licensed pet turtle farmers.

D. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that no turtles or eggs belonging to different groups are commingled without first receiving health certificates.

E. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that each turtle group is clearly identified and is not improperly commingled with saleable or hatchable eggs of other groups.

F. State-employed veterinarians or their designees shall inspect the records of licensed pet turtle farmers to verify that all documentation required by the department shall be kept current.

G. Samples of water from ponds may be taken by state-employed veterinarians or their designees and shall be transmitted to a laboratory for chemical and microbiological analysis, including, but not limited to pH, antibiotic and pesticide contaminants, and potentially pathogenic bacteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2305. Collection of Egg and Turtle Samples

In order to ensure a representative sample from the turtle group and to prevent cross-contamination, the following procedures shall be followed.

1. Licensed pet turtle farmers shall inform the department in a timely manner of their intention to ship turtle hatchlings or eggs to arrange certification procedures.

2. Upon notification by the farmer, a department-employed veterinarian or designee shall inspect the group of turtles or turtle eggs bound for shipment and randomly select

turtles or eggs for submission to a certified laboratory for microbiological examination.

3. The department-employed veterinarian shall inspect the premises and turtle group or eggs and shall issue a certificate of inspection subject to compliance with the requirements of these regulations. The certificate of inspection shall verify the species, number of turtles or eggs, destination, turtle group number and compliance with the egg immersion method.

4. All specimens shall be collected using approved methods to prevent contamination.

5. The transportation to department-approved laboratories for microbiological examination and handling of the samples of turtles and eggs shall be performed in such a manner as to maintain identity and integrity.

6. Licensed pet turtle farmers shall have the option of:

- collecting samples under the on-site supervision of the department-employed veterinarian or designee; or
- allowing the department veterinarian or designee to collect the samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended the Office of the Commissioner, LR 26:

§2307. Movement of Pet Turtle Eggs and Pet Turtles

The department shall regulate the movement of turtles or turtle eggs by licensed pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

1. All turtles or eggs leaving a licensed pet turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana licensed pet turtle farm shall accompany all shipments into international commerce. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

2. A health certificate or a laboratory report pursuant to a microbiological examination shall be required for any intrastate movement of pet turtles or pet turtle eggs except for submission to a Louisiana certified laboratory for microbiological examination.

3. Turtles shipped to certified laboratories for microbiological examination shall be accompanied by appropriate documentation.

4. No pet turtles or their eggs originating outside of Louisiana shall be sold, held for sale, or offered for any other type of commercial or public distribution in Louisiana.

5. No dead turtles or non-viable eggs shall be shipped, transported or distributed.

6. Turtles or turtle eggs shall be shipped, transported or distributed only in packaging approved by the department.

7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package and shall be accompanied by a health certificate and a certified laboratory report.

8. Official health certificates and appropriate affidavits shall accompany movement of all pet turtles and

eggs shipped, transported or distributed for non-commercial purposes.

9. Pet turtle eggs that are offered for sale shall be washed and treated by the egg immersion method, possess a group designation number, be laboratory tested, and be declared salmonella-free, unless prior approval for sale has been granted by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2309. Identification of Groups of Turtles and Turtle Eggs

A. All groups of turtles or turtle eggs produced by licensed pet turtle farmers in Louisiana shall be assigned an identification number in a department-approved manner.

B. No turtle group shall exceed 20,000 viable hatchlings or eggs.

C. All pet turtle eggs shall originate from department licensed pet turtle farmers. They shall be continuously identifiable and properly labeled.

D. All pet turtles, treated by the egg immersion method, on turtle farms operated by licensed pet turtle farmers, shall be placed in a designated lot and remain a component of the same lot until they are sold or destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2311. Microbiological Test Procedures

A. Samples of turtles or turtle eggs shall be subjected to microbiological examination using approved procedures and techniques based upon procedures set forth in *Official Methods of Analysis of the Association of Official Analytical Chemists*.

B. Turtle groups identified as contaminated with bacteria of the genus *Salmonella* or *Arizona* or any other microorganisms pathogenic to humans, domestic animals or aquatic species shall be subject to the notification provisions of R.S. 3:2358.11 and this Part.

C. All groups of turtles or groups of turtle eggs that are found to be positive for *Salmonella spp.* shall be quarantined and disposed of as provided by law and these regulations. Provided, however, the owner of each group of turtles or group of turtle eggs that test positive for *Salmonella spp.* may, within the time prescribed by law for disposal of such pet turtles, subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested by an approved diagnostic laboratory in accordance with normal protocol. The laboratory results of each subgroup of the previously test positive group shall be final. No further testing shall be allowed. Any subgroup which tests positive for *Salmonella spp.* shall be disposed of in accordance with the law and these regulations.

D. All pet turtles that are on turtle farms operated by licensed pet turtle farmers shall originate from eggs that are produced on turtle farms operated by licensed pet turtle farmers and have been subjected to the egg immersion method treatments, random sampling and tested by an approved diagnostic laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2313. Issuance of Health Certificates

A. Accredited Louisiana licensed and department-approved veterinarians will issue official health certificates.

B. Health certificates shall not be issued on groups of turtles or eggs until they have been inspected by a department-approved veterinarian and shall state that the veterinarian has found them to be free of visible signs of infectious, contagious or communicable diseases, and a certified laboratory has found them to be free of bacteria pathogenic to humans, domestic animals and aquatic species.

C. Official Louisiana health certificates shall be issued only on turtles or turtle eggs produced by Louisiana licensed pet turtle farmers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2315. Quarantine

In addition to the procedures set forth in R.S. 3:2358.11, upon the identification by laboratory examinations of salmonella or any other species of bacteria harmful to humans or other pet turtles in a group of turtles or turtle eggs, the following procedures for quarantine shall apply.

1. Notification of the test results and quarantine shall be made in person or by telephone, followed by written notification as set forth in R.S. 3:2358.11, by agents of the department, including at least one department veterinarian.

2. The quarantine and its related restrictions shall remain in effect until the farmer is otherwise notified by the department.

3. Immediately upon receipt of the personal notification, the licensed pet turtle farmer producing the quarantined eggs shall identify to the agents of the department all turtles or eggs belonging to the same group as the one which tested positive for the presence of salmonella or other harmful bacteria.

4. Licensed pet turtle farmers wishing to submit a quarantined turtle group for a second laboratory microbiological examination must do so prior to the end of the 21-day period specified in R.S. 3:2358.12, and must follow the same procedure established for an initial collection and submission of samples. Failure to timely obtain a second examination shall result in the implementation of the disposal procedures set forth in R.S. 3:2358.12.

5. Quarantined eggs or turtles shall be subject to inventory and verification by agents of the department. records, physical examination and photographs may be used to verify the inventory of quarantined eggs or turtles.

6. Quarantined turtles and eggs shall be sealed under supervision of agents of the department to prevent the spread of pathogenic bacteria until the licensed pet turtle farmer receives notice of either:

a. the lifting of the quarantine; or

b. instructions dealing with the disposal of the contaminated turtle or egg group.

7. All turtles and/or eggs belonging to a group which has either received a second notice of contamination with harmful bacteria or otherwise ordered disposed of by the department shall be disposed of in a humane manner approved by the department within 21 days of the receipt of the second notice.

8. Areas where quarantined turtles or eggs have been kept shall be disinfected in a manner approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2317. Form and Content of Records

A. In addition to those records required under R.S. 3:2358.7, licensed pet turtle farmers, exporters of pet turtles or eggs, certified laboratories and department-approved veterinarians shall be responsible for maintaining and submitting as requested proper records. Records shall include, but not be limited to, purchase and disposal of antibiotics, application of the egg immersion method, volume of eggs treated, laboratory reports and disposition of groups of eggs and turtles. These records must be current.

B. All turtles or turtle eggs that are offered for sale or sold by licensed pet turtle farmers-exporters shall be accompanied by a current chain of custody document, laboratory report and health certificate.

C. Each licensed pet turtle farmer, farmer-exporter or exporter shall be required to initiate and maintain accurate, current documentation on the origin and distribution of all groups of turtles or groups of turtle eggs.

D. The records shall be maintained in a manner that allows for an orderly inspection. The records shall include the following documents:

1. official certificate of inspection for pet turtles and eggs;

2. pet turtle group distribution document;

3. facility inspection reports (surveillance and monitoring);

4. health certificates;

5. laboratory reports;

6. U.S. Fish and Wildlife Service Form 3-177 (for exporters only);

7. turtle replenishing reports;

8. citations.

E. All documents are required to be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2319. Pet Turtle Farmers; Licensing

In addition to the provisions below, the requirements for licensure set forth in R.S. 2358.5 shall apply.

1. Licenses for pet turtle farming shall be issued only by the Office of Animal Health Services of the Louisiana Department of Agriculture and Forestry.

2. Upon issuance of an initial license by the department, licensed pet turtle farmers shall be assigned a permanent licensed farmer identification code for use on all documents related to pet turtle farming.

3. Prior to the issuance or renewal of a pet turtle farmer license, an inspection of the farm premises shall be made by an accredited, Louisiana licensed and department approved veterinarian to ensure that all equipment required for sanitization and other procedures is present and in working order.

4. A map or schematic showing the locations of ponds or other breeding habitats, storage, treatment and incubation buildings and facilities shall be included with all applications for a pet turtle farmer license. Each pond or breeding habitat shall be designated by a letter, beginning with "A", and shall be designated in sequential order and properly labeled on the map or schematic.

5. Licenses for turtle farming shall be issued upon the satisfactory completion and acceptance by the department of the application form to be a licensed pet turtle farmer, accompanied by an application fee of \$250 by the person seeking such a license. The application form should specify the following, along with any other information required by the Commissioner of Agriculture and Forestry:

- a. name of applicant;
- b. date of application;
- c. address of applicant;
- d. telephone number of applicant;
- e. whether the applicant is an individual, corporation, subchapter "S" corporation, cooperative or partnership;
- f. principal officers of the applicant, if any;
- g. location of applicant's principal office and farming premises;
- h. location of all offices operated by applicant, along with the name of the manager and phone number of each;
- i. the dates upon which the applicant begins and ends his fiscal year;
- j. the names, businesses and phone numbers of three persons who can provide references as to the character and business standing of the applicant.;
- k. the following phrase shall be included at the bottom of the application, which must be read by the applicant and which must be signed and dated by the applicant to signify his assent thereto:

The undersigned having read Part X of Chapter 16 of Title 3 of the Louisiana Revised Statutes of 1950, Act 770 of 1990 and the rules and regulations written in conformity therewith, and agreeing to abide by and comply therewith, applies for a

license to operate as a licensed pet turtle farmer under the provisions of the aforementioned Acts of the Legislature, in furtherance whereof, the statements and answers of the above questions, are made and declared to be true under penalty of perjury.

6. In the case of the transfer of ownership of the person or entity that is the licensed pet turtle farmer, that farmer must reapply with the department for licensing and must meet all of the qualifications required for the issuance of an initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2321. Proper Disposal

A. Because of the danger posed by the emergence of bacteria resistant to antibiotics used to kill salmonella and other harmful bacteria, licensed pet turtle farmers shall follow approved disposal procedures, including but not limited to the following.

1. Eggs or turtles that have been found to contain Salmonella, Arizona or other harmful bacteria shall be disposed of in a humane manner approved by the department.

2. Chlorine or antibiotic solutions shall be disposed of in a manner approved by the department.

B. Dead or deformed turtles and also those turtles not sold within 12 months of certification shall be disposed of in a humane manner as approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2323. Authority of Agents to Enter Premises

A. Agents of the department are authorized and shall be allowed entry onto any property or premises in the state of Louisiana for the purpose of carrying out the provisions of these regulations. Whenever reasonably possible, agents shall notify the turtle farmer before performing any inspections.

B. Agents of the department are authorized to inspect all records and premises maintained by licensed pet turtle farmers in order to enforce the provisions of R.S. 3:2358.1 et seq. and these regulations.

C. No person shall in any way interfere with an agent in making inspections on properties or premises in carrying out the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2325. Department-issued Guidelines

Due to the unique nature and rapid development of this evolving program, the department finds it necessary to issue

guidelines to delineate certain detailed procedures which require periodic updates. These guidelines will be made available upon request or application for licensure as a licensed pet turtle farmer. Prior to any changes in these guidelines, except for emergencies, interested persons will be given a reasonable amount of time for comment and appeal. Licensed pet turtle farmers will be sent copies of these proposed changes by U.S. mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2327. Violations and Penalties

A. For failure to implement the egg immersion method or Siebeling method of treatment in conducting his business, the offender shall be fined no more than \$1,000 and shall be further enjoined from operation of such business, and no further sales shall be allowed, until this method is implemented. No fine shall be assessed for non-willful deviation from the application of the regulations and guidelines, but the licensed pet turtle farm shall be enjoined, and no further sales shall be allowed, until deficiencies are adequately corrected.

B. It shall be a violation of these regulations for anyone to engage in the falsification or misrepresentation of groups of turtles or groups of turtle eggs for sampling, testing or retesting.

C. It shall be a violation of these regulations for anyone to alter or falsify or to provide documents for alteration or falsification of groups of turtles or groups of turtle eggs.

D. Unless otherwise provided, it shall be a violation of these regulations for any person to sell, transmit or have transmitted groups of turtles or groups of turtle eggs to any other person except a licensed and bonded freight forwarder, exporter, or approved research institution.

E. Any person found guilty of violating any of the provisions of this Chapter or those of R.S. 3:2358.1 et seq., is subject to the penalties provided by R.S. 3:2358.14, including fines of up to \$1,000 for each violation. Each day in which a violation occurs shall be considered a separate offense.

F. Prior to the assessment of any civil penalties, there shall be an adjudicatory hearing in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

§2329. Repeal of Prior Rules and Regulations

All prior rules and regulations in this chapter adopted and/or promulgated in accordance with R.S. 56:638 are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April

1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:

A public hearing will be held on these rules on May 26, 2000 at 9:30 a.m. at 5825 Florida Blvd., Baton Rouge, LA 70806 and any written comments are to be received by the close of business on June 2, 2000 at the above stated address. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Family Impact Statement

The proposed amendments to rule 7:XXI.Chapter 23 regarding the requirements for the operation and licensing for the farming and selling of Louisiana pet turtles should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

- (1) the stability of the family;
- (2) the authority and rights of parents regarding the education and supervision of their children;
- (3) the functioning of the family;
- (4) family earnings and family budget;
- (5) the behavior and personal responsibility of children;
- (6) the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pet Turtles

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to local or state governmental units. The purpose of these proposed rule changes is to conform to FDA requirements which might assist pet turtle farmers in having the FDA ban on the sale of pet turtles in Louisiana lifted or modified.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups except for those pet turtle farmers that may have to upgrade their facilities to meet licensing requirements. These proposed rule changes may require some pet turtle farmers to upgrade their facility in terms of sanitation and separation of breeding areas from handling areas as well as providing some changes in testing requirements to control salmonella spp. The cost to upgrade those facilities in which pet turtle farmers are currently in business may be between \$3,000 and \$5,000. Currently, there are 56 pet turtle farmers, of which approximately 25 percent, or 14, own facilities that will have to be upgraded at an aggregate cost between \$42,000 and \$70,000.

If groups of turtles or groups of turtle eggs are found to be positive for salmonella spp., farmers are required to quarantine

and destroy all those contaminated. This will result in loss of income to pet turtle farmers. However, if the FDA ban on the sale of pet turtles is lifted, additional revenue will be generated for pet turtle farmers. Currently, such farmers can only sell pet turtles in foreign markets. Sales could double if pet turtle farmers are allowed to sell in the U.S.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0004#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

**Contribution Limit
(LAC 52:I.1609)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate a rule to the Rules for the Board of Ethics concerning the aggregate political committee contribution limit for district level candidates pursuant to its authority in Section 1134.A of the Code of Governmental Ethics (R.S. 42:1134.A).

**Title 52
ETHICS**

Part I. Board of Ethics

**Chapter 16. The Board as Supervisory Committee of
the Louisiana Campaign Finance
Disclosure Act**

§1609. Contribution Limit

For the period January 1, 2000 to December 31, 2003, the total amount of combined contributions for both the primary and general elections, from political committees, which may be accepted by a district office candidate shall not exceed \$49,255.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 26:

No preamble to the proposed rule has been prepared. Interested persons may direct their comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (225) 922-1400 or (800) 842-6630, until May 10, 2000.

If necessary, a public hearing will be held by the Board of Ethics at 8401 United Plaza Boulevard, Baton Rouge, Louisiana, 70809-7017 between May 25, 2000 and May 30, 2000.

R. Gray Sexton
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Contribution Limit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule will increase expenditures by \$80 for publishing the rule in the *Louisiana Register*. The costs will be absorbed in the board's existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rule is not expected to have any significant impact on revenue collections of state and local governmental units. There is no way to determine how many district level candidates, or their campaign committees, will violate R.S. 18:1505.2H(7)(a)(ii) by receiving contributions in excess of \$49,255 from political committees. However, R.S. 18:1505.2J(1) provides that those that violate the above-mentioned provision shall be subject to a penalty of not more than \$5,000 or the amount of the violation, whichever is greater, except that the penalty for a knowing and willful violation shall not be more than \$10,000 or 200% of the amount of the violation, whichever is greater.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule will permit district office candidates to receive an additional \$1,060 in the aggregate amount from political committees for a primary and general election cycle during the period of January 1, 2000 to December 31, 2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Maris L. McCrory
Deputy General Counsel
0004#094

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—School Performance Scores (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed changes more clearly explain and refine existing policy as it pertains to the process for computing School Performance Scores during the first accountability cycle and subsequent cycles.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations**

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 25:1084 (June 1999), LR 26:

Bulletin 741

**Louisiana Handbook for School Administrators
School Performance Scores**

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The comparison SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data. Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- a. an average of the most recent two years' test data; and
- b. attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two years' data for other schools.

Interested persons may submit written comments until 4:30 p.m., June 9, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—School Performance
Scores**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs to state governmental units. The proposed changes refine and clarify the existing accountability policy by more clearly explaining School Performance Score calculations.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state/local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
0004#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1566—Guidelines for Pupil Progression
(LAC 28:XXXIX.503)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, Guidelines for Pupil Progression, referenced in LAC 28:I.907.A. The proposed revision gives 8th grade students the ability to earn a maximum of one Carnegie unit of credit toward graduation for remedial courses. Prior to this revision, these 8th grade students were required to take non-credit remedial courses in the areas in which they scored at the "Unsatisfactory" achievement level on LEAP 21.

**Title 28
EDUCATION**

**Part XXXIX. Bulletin 1566—Guidelines for Pupil
Progression**

§503. Regular Placement

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

vii. Eighth grade students who are 16 years of age on or before September 30 must enroll in an alternative program or setting, Option 2 or Option 3.

(a). Option 2—placement in a transitional program at the traditional high school campus where students may receive a maximum of one Carnegie unit of elective credit for remedial courses in English language arts and/or mathematics and may take credit courses in other subjects. Students may remain in Option 2 for a maximum of two years and will participate in the Grade 8 LEAP 21.

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2169 (November 1999), amended LR 26:

Interested persons may submit written comments until 4:30 p.m., June 9, 2000 to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1566—Guidelines for Pupil
Progression**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no increase in cost to state or local governmental units to implement this policy change. School systems will use existing personnel to teach any remedial courses.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Benefits to schools and students include better accountability and increased student achievement.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There should be no impact on competition and employment. Teachers currently employed will teach any new remedial courses.

Marlyn Langley
Deputy Superintendent
0004#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of
the Children with Exceptionalities Act
(LAC 28: XLIII.Chapters 11-20)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 1706, the Regulations for Implementation of the Children with Exceptionalities Act (R.S. 1941 et seq.). The present revision is being published in codified form, hence historical notes will reflect a history, by section, from this time forward.

The proposed revisions to Bulletin 1706, The Regulations for Implementation of the Children with Exceptionalities Act, R.S. 17:1941 et seq. officially changes the state regulations to be in compliance with the recent revisions to the federal regulations of IDEA-Part B and in the state statute at R.S. 17:1941 et seq. The gifted/talented regulations are not federally mandated and the IDEA regulations are not applicable to Gifted/Talented students. Since service to students who are gifted/talented are required under state

statute, a companion document had to be created to address this population.

Title 28

EDUCATION

**Part XLIII. Bulletin 1706—Regulations for
Implementation of the Children
with Exceptionalities Act**

Subpart B. Regulations for Gifted/Talented Students

(Editor's Note: Bulletin 1706 was adopted by the Board of Elementary and Secondary Education in LR 4:337 (September 1978) in an uncodified format, amended LR 7:407, 484, 625 (August, October, December 1981); LR 8:63, 323 (February, July 1982); LR 9:130, 549, 835, 836 (March, August, December 1983); LR 10:7 (January 1984); LR 11:252 (March 1985); LR 12:763 (November 1986); LR 14:11, 609 (January, September 1988); amended LR 16:297, 496 (April, June 1990); LR 17:956, 957 (October 1991); LR 18:310 1148 (April, November 1992); LR 19:171, 1131, 1416 (February, September, November 1993); LR 20:161 (February 1994); LR 21:550 (June 1995); LR 22:190 (March 1996); LR 24:283 (February 1998). This present revision is being published in codified form, hence historical notes will reflect a history by section from this time forward.)

**Chapter 11. Responsibilities of the Board of
Elementary and Secondary Education**

§1101. Free Appropriate Public Education

A. The Louisiana State Board of Elementary and Secondary Education (the State Board) shall be responsible for the assurance of a free appropriate public education to all G/T students ages three through twenty-one years; and shall exercise supervision and control of public elementary and secondary education.

B. The State Board shall be directly responsible for the provision of a free appropriate public education to G/T students, ages three through twenty-one years, who are within the jurisdiction of either Special School District Number or in the State Board Special Schools (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center).

C. The State ensures the use of whatever State, local, Federal, and private sources of support are available in the state to meet the requirements of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1102. Issuance of Regulations

The State Board shall adopt, amend, or repeal rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to R.S. 17:1942.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1103. Compliance with Federal Rules

A. The State Board has the responsibility of complying with rules and regulations governing grants for educational purposes from the Federal government or from any other person or agency, which are not in contravention to the Constitution and laws, and the authority to take all action necessary to achieve compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 12. Responsibilities of the Superintendent of Public Elementary and Secondary Education and the Department of Education

§1201. General Responsibilities and Authorities

A. The State Superintendent of Public Elementary and Secondary Education (the Superintendent) and the State Department of Education (the Department) shall administer those programs and policies necessary to implement R.S. 17:1941 et seq. Responsibilities of the State Superintendent and the Department are listed below.

1. The Department shall approve, in accordance with standards approved by the State Board, each public school program that delivers special education.

2. The Department shall recommend to the State Board, in accordance with standards approved by the State Board, each participating private school program that delivers special education.

3. The Department shall receive, administer, and direct the distribution of Federal funds for the education of G/T students, except those received directly by LEAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1205. Preparation of Annual Budget

The Department shall prepare and submit to the State Board for review and approval for the next fiscal year a comprehensive budget that at a minimum proposes the appropriations by the Louisiana Legislature of whatever State funds are needed by the Department, Special School Districts, and city/parish LEAs to comply fully with all of the requirements established by R.S. 17:1941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1220. Personnel Standards

The Department shall develop as needed, Louisiana standards for all personnel who provide special education, administrative, ancillary, pupil appraisal and related services to G/T students (three through age twenty-one).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1230. Review of Enforcement Recommendations

The State Superintendent, after review of the recommendations from the Division of Special Populations, shall submit to the State Board at its next regularly scheduled meeting all recommendations of the Department to withhold State or Federal funds for special education or to take other necessary enforcement action in accordance with the procedures described in the Louisiana Administrative Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1240. Impartial Hearing Officers

The Department and each LEA shall maintain a list of qualified and impartial hearing officers. The list will include

a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The Department shall ensure that these hearing officers have successfully completed an inservice training program approved by the Department and have met all other criteria established by the Department. The Department shall provide additional inservice training whenever warranted by changes in applicable legal standards or educational practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1251. Relationship between Special Education and Competency-Based Education

No provision of the Louisiana competency-based education program shall be construed to interfere with the provision of a free appropriate public education (FAPE) to G/T students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1252. Louisiana Educational Assessment Program

G/T students shall be included in the Louisiana Educational Assessment Program with appropriate accommodations and modifications in administration, if necessary, as documented in the student's IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1261. Program Options

The Department shall ensure that each LEA shall take steps to ensure that its G/T students residing in the area served by the LEA have available to them the variety of educational programs and services available to all students in the area served by the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1270. Interagency Agreements and Methods for Ensuring Services

A. The Department is authorized to enter into any agreement developed with another public or private agency, or agencies, which is in accordance with prescribed guidelines.

1. The agreement shall be consistent with Chapter 18 of *Bulletin 1706 Subpart B* of these regulations.

2. The agreement shall be essential to the achievement of full compliance with these Regulations.

3. The agreement shall be designed to achieve or accelerate the achievement of the full educational goals for all G/T students.

B. The Department through the Governor shall ensure that an interagency agreement or other mechanism is in effect between each noneducational public agency to ensure that FAPE is provided, including the provision of these services during the pendency of disputes. The agreement must include the following:

1. an identification of or a method for defining the financial responsibility of each agency for providing services;

2. conditions and terms of reimbursement which an LEA must be reimbursed by other agencies;

3. procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings); and

4. policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services.

C. The requirements of this section may be met through only the legal documents that are listed below:

1. state statute or regulation;

2. signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services;

3. other appropriate written methods as determined by the Governor or designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1271. Nondiscrimination

The Department shall comply with all statutes and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability and age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 13. Responsibilities and Activities of the Division of Special Populations

§1301. General Supervision

A. The Division of Special Populations is established within the Department to provide general supervision of all education programs for G/T students within the State. *General Supervision* is defined as the responsibility to perform functions prescribed by the State Board.

1. The Division shall ensure that any State standards affecting other State agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

2. The Division shall disseminate such standards and revisions to all public agencies bound by them and provide parents and all citizens with information requested regarding implementation of such State standards.

3. The Division shall provide technical assistance to all public agencies bound by such standards in their proper implementation.

4. The Division shall monitor according to written procedures the implementation of State standards in each public agency. Such monitoring shall include child identification and programmatic, administrative, and fiscal issues.

5. The Division shall institute a system for complaint management and investigation regarding the implementation of State standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1302. Monitoring, Complaint Management and Investigation

A. The Division is authorized to establish a system of monitoring, complaint management and investigatory provisions of these regulations.

B. The Division shall monitor, in accordance with the procedures established in the *Compliance Monitoring Procedures Handbook*, all public and other education agencies for compliance with these and other applicable Federal regulations, State statutes and standards.

C. The Division shall receive and review complaints concerning suspected noncompliance of regulations concerning the education of G/T students. It shall conduct this requirement through prescribed procedures.

1. The Division shall investigate allegations of failure to comply with any provision of these regulations and other applicable State or Federal laws, regulations or State standards.

2. The Division shall conduct hearings in accordance with the provisions of the *Louisiana Administrative Code*.

3. The Division, in carrying out its investigatory responsibilities, may require LEAs to keep certain records and to submit to the Division complete and accurate reports at such time and in such form and containing such information as are determined necessary to enable the Division to fulfill its responsibilities for ensuring compliance.

§1330. State Policies and Procedures: Notice and Participation

Upon approval, the Division shall distribute to interested parties and shall post the final policies and procedures on the Department's official Internet Website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1355. Confidentiality of Records

The Division shall comply with all of the requirements of §517 pertaining to confidentiality of personally identifiable information contained in educational records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1356. Notification of Child Identification Effort

Notice of the child identification effort regularly undertaken by the Department and LEAs must be published or announced in newspapers or other media with circulation adequate to notify parents throughout the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1369. Personnel Standards

A. Personnel of State and local public and private educational agencies, including local agency providers, that deliver special education services (including instructional, appraisal, related, administrative, and support services) to G/T children (3 through 21) shall meet appropriate entry level requirements that are based on the highest

requirements in Louisiana applicable to the profession or discipline in which the person is providing special education or related services.

1. *The highest requirements in Louisiana applicable to a specific profession or discipline* means the highest entry-level academic degree needed for any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline. *Profession or discipline* means a specific occupational category that provides special education or related services to G/T students under these regulations, that has been established or designated by the State, and that has a required scope of responsibility and degree of supervision.

2. *State-approved or State-recognized certification, licensing, registration, or other comparable requirements* means the requirements that a State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession of discipline in the state.

B. The Department requires LEAs providing services to exceptional students to make an ongoing good faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services. In geographic areas of the State where there is a shortage of personnel that meet these qualifications, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet established standards may be hired as entry level personnel, consistent with State law, but must attain appropriate certification credentials to meet the requirements in *Bulletin 746: The La. Standards of State Certification for School Personnel*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1370. Comprehensive System of Personnel Development

The Department shall develop and implement a comprehensive system of personnel development that meets the requirements of a State Improvement Plan designed to ensure an adequate supply of qualified special education, general education, and related services personnel, and early intervention service providers which meets the requirements of §371 and §372 below. The needs assessment for personnel development, under this section, will be updated (at least) every five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1371. Adequate Supply of Qualified Personnel

The Department will analyze state and local needs for professional development for personnel to serve G/T students: the number of personnel providing special education and related services; relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals with temporary certification); and the training or retraining necessary to eliminate the shortages based, to the maximum extent possible, on existing assessments of personnel needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1372. Improvement Strategies

A. The Department will describe the strategies the State will use to address the needs identified. The strategies will include how the State will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with G/T students (including professional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of G/T students. The plan will include a description of how the Department will accomplish the following:

1. The Department shall prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of G/T students including how the State will work with other states on common certification criteria.

2. The Department shall work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with G/T students to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs.

3. The Department shall develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single state to justify support or development of such a program of preparation.

4. The Department shall work in collaboration with other States, particularly the Departments of Education of neighboring, states, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel.

5. The Department shall acquire and disseminate to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, concerning how the State will, if appropriate, adopt promising practices, materials, and technology.

6. The Department shall encourage LEAs to recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are under represented in the fields of regular education, special education, and related services.

7. The Department shall develop a plan that is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training.

8. The Department shall provide for the joint training of parents and special education, related services, and general education personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1373. Administration of Funds

A. The Division, in concert with other Divisions within the Department, shall ensure the proper receipt and disbursement of all State and Federal funds administered by the Department specifically for the provision of special education and related services for G/T students.

B. Fiscal review and compliance monitoring will be conducted in accordance with the *Compliance Monitoring Procedures Handbook* and in accordance with auditing procedures established by the Department.

C. The monitoring of disproportionality shall be responsibility of the Department.

1. The Division shall collect and analyze data to determine whether significant disproportionality based on race, color, national origin, or gender is occurring in the state with respect to G/T students and in the placement in particular educational settings of these students.

2. If a significant disproportionality is determined, the Division shall provide for the review and, if necessary, revision of its policies, procedures and practices or shall require the affected LEA to revise its policies, procedures and practices to ensure it complies with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1374. Nonbias of Testing and Evaluation Materials

The Division shall, with the approval of the SBESE, establish procedures as found in §434 to ensure that testing and evaluation materials used for evaluation and placement are free of racial, cultural, and/or gender bias.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 14. Responsibilities of Local Educational Agencies

§1401. Responsibilities of LEAs

A. Each LEA shall identify, locate, and evaluate each student suspected of being gifted/talented, three through twenty-one years of age, residing within its jurisdiction.

B. Each LEA is responsible for providing or causing to be provided a free appropriate public education to each eligible G/T student, three through twenty-one years of age, who resides within its jurisdiction, except those students enrolled by their parents in a private school program

C. *Free appropriate public education* means special education and related services that are provided at public expense, under public supervision and direction and without charge; that meet SBESE standards, including these Regulations and all applicable bulletins approved by the SBESE (i.e., *Bulletin 741*, *Bulletin 746*, *Bulletin 1508*); that include preschool, elementary school, or secondary school education in the State; and that are provided in conformity with an individualized education program (IEP) that meets the requirements at §440-445.

1. Whatever State, local, Federal, and private sources of support are available may be used to provide a free appropriate public education, including the use of joint agreements between agencies for sharing the costs of those services.

2. Consistent with §440 and §443 of these Regulations, the LEA shall implement a student's IEP with

no delay including any case in which the payment source for providing or paying for special education and related services to the student has yet to be determined.

D. *Jurisdiction* is the right of a LEA to exercise authority over all students residing within its geographic area and over each student placed by the LEA in an educational program within the geographic area of another LEA or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school board as defined in the Louisiana Revised Statutes.

2. For SSD#1, the geographic area is the boundary of the State-operated treatment and care residential facilities.

3. For a State Board Special School, the geographic area is the boundary of the educational facility.

4. For a charter school that is considered an LEA, the geographic area is the boundary of the educational facility.

5. If there is a transfer of jurisdiction from one system to another for the provision of a free appropriate public education initiated by an LEA, this action is indicated by using the word *referral*. According to these Regulations, such a referral culminates in the establishment of responsibility for a FAPE for the student by the receiving LEA. All transfers of jurisdiction are considered significant changes in placement.

E. Students who are eligible to receive a free appropriate public education are described below.

1. Free appropriate public education must be available to all G/T students reaching the age of three years.

2. A G/T student shall remain eligible for services until reaching age the of 22 unless the student exits the school system with a high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1403. G/T Students in Public Charter Schools.

A. G/T students who attend public charter schools and their parents retain all rights under these Regulations.

B. If the public charter school is an LEA that receives funding under the MFP, the Department is responsible for ensuring that the requirements of these regulations are met through assigning initial responsibility for ensuring the requirements of these regulations are met to another entity; however, the Department shall maintain the ultimate responsibility for ensuring compliance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1411. Child Search (Child Find) Activities

A. Each LEA, in accordance with the requirements of this subpart, shall document that the effort of ongoing identification activities is conducted to identify and locate each student who is under its jurisdiction, who is suspected of being gifted/talented and in need of special education and related services, and who is one of the following:

1. enrolled in an educational program operated by an LEA;

2. enrolled in a private school program;

3. enrolled in a public or private preschool or day care program;

4. is not enrolled in school, except for students who have graduated with a regular high school diploma.

B. On going identification activities apply to highly mobile G/T students (such as migrant and homeless students) and students who are suspected of being G/T and disabled and in need of special education, even though they are advancing from grade to grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1412. Responsibilities of the Child Search Coordinator

A. Each LEA shall designate an individual as a Child Search Coordinator, who shall be held accountable for certain responsibilities prescribed by the SBESE as listed below.

1. The Child Search Coordinator shall ensure that the progress of referrals and evaluation activities required by §411, §413-414, and §430-436 for each student suspected of being G/T is tracked and that the collection and use of data to meet these requirements are subject to the confidentiality requirements in §517 of these regulations.

2. The Child Search Coordinator shall ensure that the parents of each student initially identified as suspected of being gifted/talented and in need of special educational services is provided a copy of all safeguards as defined in §1504 of *Bulletin 1706, Part B*. The parents shall also be afforded an opportunity for an explanation of these rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1413. Students in an Educational Program Operated by the LEA

A. A LEA shall identify a student as suspected of being G/T by the School Building Level Committee (SBLC). This committee shall coordinate and document the results, as appropriate, of educational screening, intellectual screening, talented screening, or other types of screening as needed, as defined in the *Pupil Appraisal Handbook*.

B. The SBLC, with the parents as invited participants, shall review all screening results to reach a decision whether to refer the student to pupil appraisal personnel for an individual evaluation. Parents shall be provided a report or summary by the SBLC on the status of the referral intervention at least once each grading period until a decision is reached. If the parents disagree with the SBLC decision, the parents shall be provided a copy of their rights which include a right to a due process hearing.

C. Within 10 LEA business days after receipt of the referral by the pupil appraisal office for an individual evaluation, pre-referral activities as listed in the *Pupil Appraisal Handbook* under "Initial Responsibilities" of the Evaluation Coordinator shall be conducted.

D. For an initial evaluation and the re-evaluation, the LEA shall obtain informed parental consent according to §1505 of *Bulletin 1706, Subpart B*. Receipt of parental consent for an individual evaluation by pupil appraisal personnel begins the sixty business days timeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1414. Child Find for Students Enrolled in Private School Programs

Students enrolled in private school programs shall be identified according to the procedures noted in §1413.A and §1462.A of *Bulletin 1706, Subpart B* and shall be referred to the school system's Child Search Coordinator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1415. Students out of School and/or Former G/T Students Residing in the State

Students out of school, including students ages 3 through 22 years who are suspected of being G/T who have left a public school without completing their public education by obtaining a State diploma, shall be referred to the school system's Child Search Coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP based on their individual need, following the enrollment process. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five school days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1417. Gifted/Talented Students Transferring from one LEA to another LEA within Louisiana

Students who have been receiving G/T services in one LEA in Louisiana and who transfer to another LEA within Louisiana shall be enrolled in the appropriate special education program in the new LEA with the current IEP or the development of a review IEP within five school days of the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1418. Evaluation and Re-evaluation

A. A full and individual evaluation shall be conducted for each student being considered for Gifted/Talented and related services under these Regulations to determine whether the student is a "G/T student" as defined in these Regulations; and to determine the educational needs of the student. The evaluation shall be conducted following the procedures in the *Pupil Appraisal Handbook*: and, if it is determined the student is a "G/T student," the results of the evaluation shall be used by the student's IEP team.

B. A re-evaluation of each G/T student will be conducted following the procedures in the *Pupil Appraisal Handbook*, and the results of any re-evaluations will be addressed by the student's IEP team in reviewing and, as appropriate, revising the student's IEP.

C. Informed parental consent shall be obtained before conducting an evaluation or a re-evaluation according to prior notice and consent as per §1504 and §1505 of *Bulletin 1706, Subpart B*. □

Constitutes a failure by the LEA to comply with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1430. Pupil Appraisal Personnel

A. LEAs shall regularly employ pupil appraisal personnel to conduct individual evaluations.

B. LEAs may, when necessary, contract with individuals or organizations to provide specialized assessments needed to provide a comprehensive individual evaluation of an identified student.

C. LEAs may, when necessary, use a combination of the approaches listed herein in §1430 A and §1430B.

D. Regardless of the approach used for conducting individual evaluations, LEAs retain full responsibility. Any failure by an employee or contractor to meet any requirements of this section constitutes a failure by the LEA to comply with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1431. Required Individual Evaluation

A. An initial evaluation shall be conducted whenever the student is not enrolled in special education and one of the following conditions exists.

1. Informed parental consent for an initial evaluation has been requested and received by the LEA.

2. A direct request for an individual evaluation of an enrolled student from sources other than the SBLC shall be routed through the SBLC for the collection of the required screening information and the conduct of the pre-referral procedures. If the LEA suspects that the student is exceptional, an evaluation shall be conducted. If the LEA disagrees with the referral source and does not suspect that the student is exceptional, it may refuse to conduct an evaluation. When the LEA refuses to initiate an evaluation upon parental request, the parent shall be provided a copy of all procedural safeguards, which include the right to a due process hearing.

3. A final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted.

4. A written request for an individual evaluation has been issued by a hearing officer or by the State Level Review panel.

B. An individual re-evaluation shall be conducted by the IEP Team and the evaluation coordinator if conditions warrant, but at least every three years whenever the student is enrolled in special education and one of the following occurs:

1. It is requested in writing by the student's teacher or by the local school system's special education supervisor/director.

2. It is requested in writing by the student's parent(s).

3. A significant change in educational placement of a student is proposed by the LEA, the parent, or both.

4. A final written decision has been issued by a court of competent jurisdiction requiring that an individual re-evaluation be conducted.

5. A student is suspected of no longer being exceptional and no longer in need of services.

C. A LEA is not required to conduct a re-evaluation of G/T students who transfer with a current evaluation into its jurisdiction from another jurisdiction in Louisiana.

D. In the event a parent has privately obtained an independent educational evaluation, the LEA shall consider the individual evaluation in accordance with §1503 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1433. Evaluation Coordination

A. Upon identification of a student suspected of being exceptional, a qualified pupil appraisal staff member shall be designated as the evaluation coordinator.

B. The evaluation coordinator shall ensure that the evaluation is conducted in accordance with all requirements in the *Pupil Appraisal Handbook* including the following: initial responsibilities following receipt of referral, selection of participating disciplines, procedural responsibilities, and mandated timelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1434. Evaluation Process and Procedures

A. Individual evaluations shall be conducted according to the "Procedures for Evaluation" for each exceptionality as listed in the *Pupil Appraisal Handbook*.

B. The determination of gifted/talented shall be based upon the "Criteria for Eligibility" established in the *Pupil Appraisal Handbook* before the initial delivery of special education and related services.

C. All evaluations shall be conducted according to the prescribed standards, listed below.

1. Tests and other evaluation materials used to assess a student under these Regulations shall be selected and administered so as not to be discriminatory on a racial or cultural basis, and shall be provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so.

2. Materials and procedures used to assess a student with limited English proficiency shall be selected and administered to ensure that they measure the extent to which the student needs special education, rather than measuring the student's English language skills.

3. A variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the student, including information provided by the parents, and information related to the student's achievement.

4. Any standardized tests that are given to a student shall have been validated for the specific purpose for which they are used; they shall be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) shall be included in the evaluation report.

5. Tests and other evaluation materials include those tailored to assess specific areas of educational need, not merely those that are designed to provide a single general intelligence quotient. In no event shall IQ scores be reported

or recorded in any individual student's evaluation report or cumulative folder.

6. No single procedure shall be used as the sole criterion for determining whether a student is a G/T student and for determining an appropriate educational program for the student.

7. The student shall be assessed in all areas related to the suspected G/T identification.

8. In evaluating each student suspected of being G/T according to established procedures, the evaluation shall be sufficiently comprehensive to identify all of the student's special education and related services needs.

9. Assessment tools and strategies that provide relevant information that directly assist persons in determining the educational needs of the student shall be selected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1435. Determination of Eligibility and Placement

A. In interpreting evaluation data for the purpose of determining whether a student is a G/T student and what are the educational needs of the student, the multidisciplinary team shall comply with prescribed procedures.

1. The team shall draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background.

2. The team shall ensure that information obtained from all of these sources is documented and carefully considered.

B. Upon completing the administration of tests and other evaluation materials, the multidisciplinary team and the parent of the student shall determine whether the student is a G/T student, as defined in these regulations: and the LEA shall provide a copy of the evaluation report and the documentation of determination of eligibility to the parents.

C. A student may not be determined to be eligible under these regulations, if:

1. the determinant factor for that eligibility determination is limited English proficiency;

2. the student does not otherwise meet the eligibility criteria.

D. If a determination is made that a student is gifted/talented and needs special education and related services, an IEP shall be developed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1436. Time lines

A. There shall be no more than ten business days from the date of receipt of the referral for an individual evaluation of an identified student by pupil appraisal personnel to the date when the request was made for parental approval to conduct the individual evaluation.

B. Each individual evaluation shall be completed and the evaluation report disseminated within sixty business days of receipt of parental approval.

C. Extensions of evaluation timelines shall be justified as defined in the *Pupil Appraisal Handbook*.

D. The required triennial re-evaluation shall be completed on or before the third year anniversary date and shall include the activities noted in the *Pupil Appraisal Handbook*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1437. Determination of Needed Data for Re-Evaluations

A. In conducting re-evaluations under these regulations, the IEP team and the evaluation coordinator shall comply with prescribed procedures as described below.

1. The team and the evaluation coordinator shall review existing evaluation data on the student, including evaluations and information provided by the parents of the student and current classroom-based assessments. (The team may conduct its review without a meeting.)

2. On the basis of that review and input from the student's parents, the team shall identify what additional data, if any, are needed to determine:

a. what are the present levels of performance and educational needs of the student;

b. whether the student continues to need special education and related services; and

c. whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student.

3. The team and the coordinator shall determine what tests and other evaluation materials shall be administered, as needed, to produce the data identified in 1437.A.2 above.

4. The LEA shall notify the student's parents, if the determination under 1437.A.2 above is that no additional data are needed to determine whether the student continues to be a G/T student, not only of that determination and the reasons for it but also of the right of the parents to request an assessment to determine whether, for purposes of services under these Regulations, the student continues to be a G/T student.

5. The LEA is not required to conduct the assessment described in 1437.A.4 above unless requested to do so by the student's parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1440. IEP/Placement Responsibilities

A. General Responsibilities. Each LEA develops and implements an IEP for each G/T student served by that agency as described below.

1. Each LEA is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a G/T student in accordance with all the requirements of this subpart and *Louisiana's G/T IEP Handbook*.

2. The IEP shall be developed using a format approved by the Department.

3. The LEA shall provide a copy of each completed IEP/Placement document signed by the officially designated representative of the LEA at no cost to the student's parent(s).

4. At the beginning of each school year, each LEA shall have in effect an IEP for every G/T student receiving special education and related services in that LEA.

5. When the student's IEP is in effect, it shall be accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation.

6. Each teacher and service provider shall be informed of his or her specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that shall be provided for the student in accordance with the IEP.

7. An IEP that is consistent with FAPE shall be developed and implemented for eligible students by their third birthday.

B. Each LEA shall comply with the prescribed time lines as described below.

1. Each initial IEP/Placement document shall be completed within thirty calendar days from the date of dissemination of the written evaluation report to the special education director/supervisor.

2. Implementation of educational placement shall begin as soon as possible but no later than ten calendar days following receipt by the LEA of formal parental approval.

C. IEP's shall be reviewed and revised following prescribed procedures described below.

1. Each LEA shall ensure that each IEP/Placement review meeting is conducted at least annually.

2. Each LEA shall ensure that the team reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

3. Each LEA shall revise the IEP, as appropriate, to address concerns in any areas noted in §1444.

4. More than one IEP/Placement review meeting may be conducted at the discretion of the school system. If a parent makes a written request for an IEP/Placement review meeting, the school system shall respond in ten calendar days in writing to that request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1441 IEP Team Participants

A. Each LEA shall ensure that the IEP team for each student with exceptionality includes all of the required participants, as listed below.

1. One or both of the parents of the student.

2. At least one regular education teacher of the student (If the student is, or may be, participating in the regular education environment); the teacher shall to the extent appropriate, participate in the development, review and revision of the student's IEP, including:

a. the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student;

b. when a regular education teacher calls for a reconvening of the individualized education program team for any G/T student assigned to his or her classroom on a full time basis in which the IEP requires an adjustment in the curriculum, instruction or services to be provided by the regular education teacher, this teacher shall participate on the

IEP team and shall participate continuously thereafter for as long as the student is assigned to his or her classroom.

3. At least one special education teacher, or when appropriate, at least one special education provider of the student. For review IEP meetings, this participant should be a special education teacher of the student or a service provider of the student.

4. An officially designated representative of the LEA who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of G/T students. The LEA may designate another LEA member of the IEP team to serve also as the agency representative, if the above criteria are satisfied.

5. An individual who can interpret the instructional implications of evaluation results. This person may be a member of the team as described in 2, 3, 4, and 6.

6. At the discretion of the parent or LEA, other individuals who have knowledge or special expertise regarding the student, including related service personnel as appropriate. The determination of the knowledge or special expertise of any individual shall be made by either the parent or the LEA, whoever invited the individual to be a member of the IEP team.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1442. Parent Participation

A. LEAs shall take steps to ensure that one or both of the parents of the G/T student are present at each IEP/Placement meeting or are afforded an opportunity to participate. LEAs shall contact the parent(s) in writing regarding each meeting early enough to ensure that they will have an opportunity to attend and shall schedule the meeting at a mutually agreed upon time and place.

1. This notice shall indicate the purpose, time, and location of the meeting, as well as who shall be in attendance.

2. This notice shall inform the parents of the participation of other individuals on the IEP team who have knowledge or special expertise about the student.

B. If neither parent can attend a scheduled IEP/Placement meeting for which arrangements have been made in accordance with these regulations, other methods shall be used by the LEA to ensure parental participation, including making individual or conference telephone calls.

C. The meeting may be conducted without a parent in attendance provided that certain procedures are followed, as described below. method for parental participation is used and documented; or

1. The LEA has documented attempts to arrange a mutually agreed on time and place, such as:

a. detailed records of telephone calls made or attempted and the results of those calls;

b. copies of correspondence sent to the parents and any responses received;

c. detailed records of visits to the parents' home or place of employment and the results of those visits.

D. The LEA shall take whatever action is necessary to ensure that the parents understand the proceedings at a meeting, including arranging for an interpreter for parent(s) who are deaf or whose native language is other than English.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1443. Parental Approval of IEP/Placement

A. When securing parental approval of the initial IEP/Placement document, the LEA shall follow prescribed procedures.

1. Each LEA shall obtain informed parental consent prior to providing initial special education and related services. The IEP will be considered in effect after the parents indicate formal written approval by signing the IEP/Placement document.

2. If the parents withhold written approval of the educational placement, the LEA special education supervisor shall within 10 business days either:

a. recommend a modified educational placement to which the parents will provide approval; or

b. indicate to the parents in writing that no placement modification will be made, in which case the student shall be maintained in the present placement or be offered placement in the LEA with approval of the parents until the matter is resolved.

3. The parent(s) may request a hearing in accordance with §1507 of these Regulations in order to resolve any disagreement over the proposed IEP/Placement of the student.

4. If the LEA wishes to override the parental decision to withhold a formal written approval for the initial placement of the student in special education, the LEA may appeal to the appropriate State court within the time prescribed by State Law.

B. In conducting a review IEP/Placement, the IEP team may make decisions without the involvement of the parents, when the LEA is unable to obtain the parents' participation in the decision. In this case, the public agency shall have a record of its attempt to ensure their involvement, including information that is consistent with the requirements of §1442 of *Bulletin 1706, Subpart B*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1444. G/T IEP Content and Format

A. Each completed IEP shall contain a general overview of the student's instructional needs. Required components are listed below:

1. the student's strengths and support needs;

2. the concerns of the parents for enhancing the education of their child;

3. the results of the initial evaluation or most recent re-evaluation of the student;

4. as appropriate, the results of the student's performance on any general state or district wide assessment program;

5. the student's present levels of educational performance.

B. The IEP team shall also consider the following special factor and include, if needed, a statement addressing this issue on the IEP.

1. In the case of a student with limited English proficiency, it shall consider the language needs of the student as those needs relate to the student's IEP.

C. The IEP shall contain a statement of measurable annual goals, including benchmarks or short-term objectives, as listed below.

1. The statement shall relate to meeting the student's needs that result from the student's exceptionality and progress in an accelerated and enriched curriculum.

2. The statement shall relate to meeting each of the student's other educational needs that result from the student's exceptionality.

3. The statement shall relate to appropriate activities for the preschool-aged student.

D. The IEP shall contain a statement of the special education and related services and/or supplementary aids and services to be provided to the student, or on behalf of the student and a statement of the program modifications or supports for school personnel that will be provided for the student to achieve the following as listed below:

1. to advance appropriately toward attaining the annual goals;

E. The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications shall be specified in the IEP.

F. The IEP shall contain a statement of how the student's progress toward the annual goals will be measured.

G. The IEP shall contain a statement of how the student's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their regular education student's progress:

1. their child's progress toward the annual goals; and

2. the extent to which the progress is sufficient to enable the student to achieve goals by the end of the year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1445. IEP Accountability

A. The LEA shall provide special education and related services to a G/T student in accordance with the student's IEP.

B. The LEA shall make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP.

C. No state agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and objectives or benchmarks. The State or public agency may establish its own accountability systems regarding teacher, school or agency performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1446. Least Restrictive Environment of a G/T Student

A. For each educational placement of a G/T student, including a preschool student, the LEA shall ensure that prescribed placement procedures are implemented.

1. Placement shall be determined at least annually by a group of persons (including the parents and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options).

2. Placement must be based on an IEP/Placement document.

3. A continuum of alternative educational placements shall be available to the extent necessary to implement the IEP/Placement document for each G/T student. At a minimum, this continuum shall include (in order of restrictiveness as it applies to each student) the following:

a. instruction in regular classes (provisions shall be made for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement), including;

- b. resource room;
- c. self contained;
- d. pre-school.

4. Nonacademic and extracurricular services and activities shall be provided in the manner necessary to afford G/T students an equal opportunity for participation in those services and activities; these services may include counseling services, recreational activities, athletics, transportation, health services, special interest groups or clubs sponsored by the LEA.

B. Each completed IEP shall contain the prescribed placement components:

1. The IEP shall identify the specific educational environment for the G/T student.

2. The four assurances listed below shall be provided when site determination decisions are made by the LEA.

a. The placement shall be in the school which the student would attend if not G/T unless the IEP of the student requires some other arrangement. If the placement is not in the school the student would normally attend, the placement shall be as close as possible to the student's home.

b. The school and the class shall be chronologically age appropriate for the student. No student shall be placed in a setting that violates the maximal pupil/teacher ratio or the three-year chronological age span.

c. The school/setting selected shall be accessible to the student for all school activities.

d. If the placement is other than regular/general education, the classroom shall be comparable to and integrated with regular classes.

e. Any deviation from the four assurances above shall be documented and justified on the IEP. In selecting an alternative placement, the LEA shall consider any potential harmful effect on the G/T student or on the quality of services needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1448. Change of Educational Placement

A. During each IEP review or revision, the educational placement of the G/T student may be changed: the student's moving from one setting to another will not require a re-evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1449. IEP Declassification Placement

A. When a re-evaluation indicates that a G/T student currently enrolled in special education no longer meets all the criteria in the *Pupil Appraisal Handbook* for classification as a G/T student, the LEA shall either:

1. place the student in regular education if the student is eligible for regular education and refer the student to the School Building Level Committee to determine his/her eligibility for appropriate accommodations or modifications;

2. recommend that the student be placed in an appropriate alternative placement for up to a one-year period of special education programming; the declassification program shall be provided in accordance with an IEP/Placement document and shall include a regular education membership using resource or itinerant services, if needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1462. G/T Students Enrolled by their Parents in Private Schools

A. As used in this section, *private school students* means students enrolled by their parents in private school or facilities.

B. Private school G/T students shall be identified, located, and evaluated through prescribed procedures.

1. Each LEA shall locate, identify, and evaluate all private school G/T students, including religious-school students residing in the jurisdiction of the LEA. The activities undertaken to carry out this responsibility for private school G/T students shall be comparable to activities undertaken for G/T students in public schools.

2. Each LEA shall consult with appropriate representatives of private school G/T students on how to carry out the activities in paragraph §1462.B.1 above.

C. The provision of services to G/T students shall follow basic requirements.

1. No LEA is required to provide services for G/T students enrolled in private schools or in home school programs.

D. Complaints are limited to the conditions listed below.

1. The due process procedures in §1507 of these regulations apply to complaints that an LEA has failed to meet the child find requirements, including the procedures for evaluation and determination of eligibility found at §1411 - 1438. of these regulations.

2. Complaints that an LEA has failed to meet the requirements of §1462 of these regulations may be filed under the procedure in §1506.A. of Bulletin 1706, Subpart B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1465. Facility Comparability

Facilities identified as being for G/T students and the services and activities provided therein shall meet the same standards and level of quality as do the facilities, services, and activities provided to other students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1470. Local Advisory Panel

A local advisory panel for the education of G/T students may be appointed by each LEA for the purpose of providing policy guidance with respect to special education and related

services for G/T students in their school district, with the approval of its governing authority. Membership of the panel should appropriately represent the populations served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1481. Appointment of a Supervisor/Director of Special Education

A. Each LEA shall employ a certified supervisor/director of special education on a full- or part-time basis.

B. Each LEA shall designate a contact person for G/T issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1482. Personnel Standards

Personnel of local public and private educational agencies, including other local agency providers to G/T students (three through age twenty-one), shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which a person is providing special education or related services. (See §1369 in *Bulletin 1706, Subpart B* for more details.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1483. Comprehensive System of Personnel Development

A. LEAs shall have on file with the Department information to demonstrate that all personnel necessary to carry out these regulations within the jurisdiction of the agency are appropriately and adequately prepared, as consistent with the requirements of §482 above

B. To the extent the LEA determines appropriate, it shall contribute to and use the comprehensive system of personnel development of the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1486. Procedure for Determination of Eligibility for State or Federal Funds

Each LEA requesting State or Federal funds administered by the Department shall do so according to the procedures established by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1495. Interagency Coordination

A. Each LEA shall, upon request, assist the Department in the development and implementation of any interagency agreements designed to improve the delivery of special education and related services to G/T students.

B. Each LEA shall enter into interagency agreements in §1830 to the extent necessary to comply with all provisions of these regulations.

C. Each agreement shall be consistent with §1800 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 15. Procedural Safeguards

§1501. General Responsibility

Each Local Educational Agency (LEA) shall establish and implement procedural safeguards that meet the requirements of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1502. Opportunity to Examine Records and Parental Participation in Meetings

A. Parents of a G/T student shall be afforded an opportunity to inspect and review all educational records with respect to the identification, evaluation and educational placement of the student and with respect to the provision of a FAPE to the student.

B. Parents of a G/T student shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation and educational placement of the student and the provision of a free appropriate public education to the student.

1. Each LEA shall provide notice consistent with §1504 of these regulations to ensure that parents of a G/T student have the opportunity to participate in meetings described in paragraph 1502.B. above.

2. A meeting does not include informal or unscheduled conversations involving LEA personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision, if those issues are not addressed in the student's IEP. A meeting also does not include preparatory activities in which public agency personnel engage to develop a proposal or response to parents' proposal that will be discussed at a later meeting.

3. Each LEA shall ensure that the parents of each G/T student are members of any group that makes decisions on the educational placement of their child. (See §1442 of these regulations)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1503. Independent Educational Evaluation

A. The parents of a G/T student have a right to obtain an independent educational evaluation of the student subject to this section. The LEA shall provide to the parent, upon request for an IEE, information about where an independent educational evaluation may be obtained and the criteria by which it shall be conducted.

1. *Independent educational evaluation (IEE)* means an evaluation conducted by a qualified examiner who is not employed by the school system responsible for the education of the student in question.

2. *Public expense* means that the school system either shall pay for the full cost of the evaluation or shall ensure that the evaluation is otherwise provided at no cost to the parent.

3. To avoid unreasonable charges for Independent Educational Evaluations (IEEs), an LEA may establish maximum allowable charges for specific tests. The maximum shall be established so that it allows parents to choose among the qualified professionals in the area and

eliminates only unreasonably excessive fees. The LEA shall allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's criteria.

4. The LEA shall allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's allowable charges.

B. An IEE is provided at public expense to the parents, if:

1. the parent disagrees with an evaluation provided by the LEA; or

2. a hearing officer requests an IEE as part of a due process hearing.

C. When an LEA is notified in writing by the parents that the parents disagree with the LEA's educational evaluation, the LEA has ten business days following the receipt of the notice to initiate a due process hearing to show that its evaluation is appropriate. If the LEA does not initiate a due process hearing within the 10 business days, the IEE shall be at public expense.

1. The request for an IEE may be presented orally if the parents are illiterate in English or have a disability that prevents the production of a written statement.

2. If, in a due process hearing, the hearing officer finds that the LEA's evaluation is appropriate, the parents still have the right to an independent evaluation, but not at public expense.

3. If the parents request an IEE, the LEA may ask for the parents' reasons why they object to the public evaluation. However, the explanation by the parents may not be required and the LEA may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the public evaluation.

D. An IEE obtained at public expense shall meet the same criteria established by these Regulations and the *Pupil Appraisal Handbook*. The LEA may not impose conditions on obtaining an IEE, other than the criteria contained in the *Pupil Appraisal Handbook*.

E. If the parents obtain an IEE at private expense and the IEE meets the criteria in the *Pupil Appraisal Handbook*, the results of the evaluation shall be considered by the LEA; any decision made with respect to the provision of a free appropriate public education to the student may be presented as evidence at a hearing as described in §1507 of these regulations regarding the student.

F. The LEA is not required to use the IEE obtained at private expense as its only criteria for deciding the content of the student's special education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1504. Prior Notice and Procedural Safeguard Notice

A. Written notice shall be given to the parents of a G/T student a reasonable time before the LEA:

1. proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student; or

2. refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

B. The prior notice shall include prescribed information as listed below:

1. a description of the action proposed (or refused) by the school, an explanation of why the LEA proposes or refuses to take the action, and a description of any other options the LEA considered with the reasons why those options were rejected;

2. a description of each evaluation procedure, test, record or report the LEA used as a basis for the proposed or refused action;

3. a description of any other factors that are relevant to the LEA's proposal or refusal;

4. a statement assuring that the parents of a G/T student have protections under the procedural safeguards; and

5. sources for parents to contact to obtain assistance in understanding the provisions of the procedural safeguards.

C. The notice shall be written in language understandable to the general public and provided in the native language of the parents or other mode of communication used by the parents, unless it is clearly not feasible to do so; and

1. if the native language or other mode of communication of the parents is not a written language, the Department and the LEA shall take steps to ensure that:

a. the notice is translated orally or by other means to the parents in their native language or other mode of communication;

b. the parents understand the content of the notice;

c. the LEA shall maintain written evidence that the requirements of paragraph C. of this section have been met.

D. Notices scheduling Individualized Education Program (IEP) Team meetings shall contain not only a description of the purpose, date, time, location of the meeting, but also a list of who will be in attendance.

E. If the notice relates to an action proposed by the LEA and requires parental consent under §1505 of these regulations, the LEA may give notice at the same time it requests parental consent.

F. Requirements for procedural safeguards notice are noted below:

1. A copy of the procedural safeguards shall be given to the parents of a G/T student, at a minimum:

a. upon the initial referral of the student for evaluation;

b. upon each notification of an IEP meeting;

c. upon re-evaluation of the student; and

d. upon receipt of a request for a due process hearing.

2. The procedural safeguards notice shall include a full explanation of all procedural safeguards available including the State's complaint procedures available in §1506 of these regulations.

3. The procedural safeguards notice shall meet the requirements of §1504.C. of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1505. Parental Consent

A. Parental consent shall be obtained before the LEA conducts an initial evaluation or re-evaluation and before the

LEA provides initial special education and related services to a G/T student.

B. Consent for the initial evaluation may not be construed as consent for initial placement as described in §1505A.2. above.

C. If re-evaluation involves initial criteria for any exceptionality, then written parental consent shall be obtained.

D. Parental consent is not required before the LEA reviews existing data as part of an evaluation or re-evaluation or before the LEA administers a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

E. Whenever parental consent has been withheld, the LEA shall follow procedures to ensure a FAPE for the student.

1. If the parents' decision is to withhold consent for the initial evaluation or initial placement of the student in G/T services, the LEA may appeal. If the parents withhold consent for a re-evaluation, the LEA may request a due process hearing following the procedures outlined in §1507 of these regulations.

2. The parents may refuse special education services.

3. An LEA may not use a parents' refusal to consent to one service or activity to deny the parents or student any other service, benefit, or activity of the LEA except as required by these regulations.

F. Informed parental consent need not be obtained for re-evaluation if the LEA can demonstrate through detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, detailed records of visits made to the parent's home or place of employment, and the results of those visits that it has taken reasonable measures to obtain that consent and the student's parent has failed to respond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1506. Complaint Management and Mediation

A. Complaint management procedures have been established to resolve disputes regarding educational decisions between an LEA and parents.

1. Any individual or organization acting on behalf of a G/T student shall have a right to file a complaint when it is believed that there exists a violation of State law regarding the educational rights of a G/T student.

2. Complaints may be filed in writing, by telephone or in person. The complaint shall involve a violation that occurred not more than one year prior to the date of filing unless a longer period is reasonable because the violation is continuing, or the because complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint was received under this Section.

3. Upon receipt, the complaint shall be reviewed; the LEA shall be notified in writing and asked to provide specific information regarding the complaint.

4. The complainant shall be given the opportunity to provide additional oral or written information during the course of the investigation.

5. All information relevant to the complaint shall be reviewed by the Department and a decision shall be made as to whether an on-site visit is needed. A determination shall be made as to whether the LEA is violating any requirements of applicable Federal or State statutes, regulations, or standards.

6. Within 60 days of the receipt of the complaint, the Department shall issue a letter of findings to the complainant and to the LEA on each of the allegations of the complaint and on the reasons for the Department's decision.

7. The Department shall ensure effective implementation of the final decision through technical assistance, negotiations and corrective actions that achieve compliance. In resolving a complaint in which it has found a failure to provide appropriate services, the Department shall address how to remediate the denial of those services, including, as appropriate, not only the awarding of monetary reimbursement or other corrective action appropriate, to the needs of the student; but also appropriate provision of services for all G/T students.

8. The Department shall allow for extensions of the 60 day time lines only if exceptional circumstances exist.

9. If a complaint received is the subject of a due process hearing or if it contains multiple issues, of which one or more is part of the hearing, the Department shall set aside any part of the complaint that is being addressed in the hearing until the conclusion of the hearing. Any issue of the complaint that is not a part of hearing action shall be resolved, using the time limit and procedures above.

10. If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the Department shall inform the complainant to that effect.

11. A complaint alleging a LEA's failure to implement a due process decision shall be resolved by the Department.

B. Mediation process procedures shall be available to parents and to the LEA personnel to allow them to resolve disputes involving any matter described in §504.A.1. At a minimum, mediation shall be offered whenever a due process hearing is requested under §507 and §519.I. and, §519.L of these regulations.

1. Mediation, which is voluntary on the part of both parties, shall be conducted by a qualified and impartial mediator trained in effective mediation techniques and assigned by the Department.

2. Mediation shall not be used to deny or delay a parent's right to a due process hearing or to deny any other rights.

3. The Department shall maintain a list of individuals who are qualified mediators knowledgeable in laws and regulations relating to the provision of special education and related services.

4. The impartial mediator may not be an employee of any LEA or State agency that is providing direct services to the student. The mediator shall not have a personal or professional conflict of interest. A person who otherwise qualifies as a mediator shall not be an employee of a LEA solely because he or she is paid by the agency to serve as a mediator.

5. The Department shall bear the cost of the mediation process.

6. The mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

7. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

8. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1507. Impartial Due Process Hearing

A. A parent or LEA may initiate a hearing on any of the matters described in §1504 A.1 and 2 of these regulations. A parent initiates a hearing by sending written notice to the LEA. The LEA initiates a hearing by sending a written notice to the parents and the Department. When a hearing has been initiated, the LEA shall inform the parents of the availability of mediation.

1. The written notice to the LEA for a due process hearing shall include the student's name and address, the name of the school the student is attending, a description of the nature of the problem, and a proposed resolution of the problem to the extent known and available to the person requesting the hearing.

2. The request for a due process hearing may be presented orally if the parents are illiterate in English or have a disability that prevents the production of a written statement.

3. A LEA may not deny or delay the parents' right to a due process hearing for failure to provide the required notice described above.

B. Any party to a hearing has the rights as described below.

1. The hearing shall be conducted at a time and place convenient to the parents, the student and the school system.

2. Any party to the hearing shall have the right to be accompanied and advised by counsel or by individuals with special knowledge or training with respect to the problems of exceptional students.

3. Any party to the hearing shall have the right not only to present evidence but also to confront, cross-examine, and compel the attendance of witnesses.

4. Any party to the hearing shall have the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

5. At least five business days prior to a hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluation that the party intends to use at the hearing.

6. The hearing officer may bar any party that fails to comply with the above requirement from introducing the relevant evaluation or recommendations at the hearing without the consent of the other party.

7. Any party to the hearing shall have the right to obtain a written or electronic, at the option of the parents, verbatim record of the hearing at no cost.

8. Any party to the hearing shall have a right to obtain written, or, at the option of the parent, electronic findings of fact and decisions at no cost.

C. A parent involved in a hearing shall have the right to:

1. have the student who is the subject of the hearing present;

2. open the hearing to the public;

3. be informed, upon request, of any free or low-cost legal and other relevant services when either the parents or LEA initiates a due process hearing; and

4. be informed that, if the parent prevails in a due process hearing, the parents may be able to recover attorney fees.

D. The Department, after deleting any personally identifiable information, and shall upon request, make those findings and decisions available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1508. Hearing Officer Appointment and Hearing Procedures

A. The hearing officer appointed shall be in compliance with requirements stipulated below.

1. A hearing officer shall be an impartial person knowledgeable about the legal and educational issues involved in assessing compliance with these Regulations.

a. A hearing officer may not be an employee of a public agency that is involved in the education or care of the student. A person who otherwise qualifies to conduct a hearing under this section is not an employee of the public agency solely because he or she is paid by the agency to serve as a hearing officer.

b. No person who has a personal or professional interest that would conflict with his or her objectivity may be appointed to serve as a hearing officer.

2. The Department and each LEA shall maintain the list of qualified hearing officers. The list shall include a statement of the qualifications of each of the hearing officers and, to the extent possible, shall include representation from all regions of the state. The Department shall ensure that these hearing officers have successfully completed an inservice training program approved by the Department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

3. Appointments, which shall be for a period of three years, may be renewed. The Department shall annually review the activities of persons on the list and shall remove persons from the list if they leave the state, decline to participate actively in the hearing process, cease to be impartial, or do not carry out their responsibilities in a satisfactory fashion.

B. Hearing Procedures shall include the designating of a hearing officer as stipulated below.

1. The local special education administrator shall notify the Department of the need to assign a hearing officer within one day of receipt of a request for a hearing.

2. The hearing officer will be assigned within five days by the Department on a rotational basis from the Department's list of certified hearing officers. Consideration will be given to the location of the hearing when making the assignment.

3. After a hearing officer has been assigned, the Department shall provide both the complainant and local special education supervisor a written notice of the name of the hearing officer. The written notice shall be delivered by certified mail.

4. If the parent or LEA has reasonable doubt regarding the impartiality of a hearing officer, written information shall be submitted to the Department within three days of receipt of the notice of the assigned hearing officer.

5. The Department shall review any written challenge and provide a written decision and notice to the parent and LEA within three days after receipt of the written challenge.

6. If the Department determines that doubt exists as to whether the proposed hearing officer is truly impartial, another hearing officer shall be immediately assigned.

C. Procedures for conducting a hearing are stipulated below.

1. The hearing officer shall contact all parties to schedule the hearing and then shall notify in writing all parties and the Department of the date, time and place of the hearing.

2. The hearing shall be conducted in accordance with guidelines developed by the Department.

3. At the request of either party, the hearing officer shall have the authority to subpoena persons to appear at the hearing.

4. A final hearing decision shall be reached and a copy of the decision mailed to each party not later than 45 days after the receipt of the request for the hearing.

5. A hearing officer may grant specific extensions of time beyond the prescribed time requirements at the request of either party. When an extension is granted, the hearing officer shall, on the day the decision is made to grant the extension, notify all parties and the Department in writing, stating the date, time, and location of the rescheduled hearing.

6. A decision made by the hearing officer shall be final unless an appeal is made by either party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1509. Appeal of the Hearing Decision

A. Any party aggrieved by the findings and decisions of the hearing may appeal the hearing decision.

B. A written request to review the hearing decisions shall be sent by certified mail to the Department within fifteen days of receipt of the hearing decision. The request shall state the basis upon which the review is requested.

C. The Department shall notify all parties of the request and activate the State Level Review Panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1510. The State Level Review Panel

A. A state level review panel shall be composed of three hearing officers trained by the Department in special education law and due process procedures.

B. State Level Review Panel Members may not be employees of the State agency or of the LEA responsible for the education or care of the student. They shall not have participated in the due process hearing being appealed or have a personal or professional interest that would conflict with their objectivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1511. Appeal to the State Level Review Panel

A. In conducting the appeal, the panel shall issue a decision within 30 days from receipt of the request for an appeal.

1. The panel shall examine the entire hearing record.

2. The panel shall ensure that procedures were consistent with the requirements of due process.

3. The panel shall seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights stated in §1507.A and B of Bulletin 1706, Subpart B.

4. The panel shall afford all parties an opportunity for oral or written argument, or both, at the discretion of the reviewing panel. Any written argument(s) shall be submitted to all parties.

5. The panel shall make a final decision upon completion of the review.

B. In conducting the appeal, the panel shall provide copies of its written findings and the decision to all parties.

C. The Department, after deleting any personally identifiable information, shall annually make those findings and decisions available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1512. Appeal to State or Federal Court

Any party aggrieved by the decision and the finding of the State Level Review Panel has the right to bring a civil action in State or Federal court. The civil action shall be filed in State court within thirty (30) days of the decision. This timeline does not apply to Federal court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1514. Student Status during Proceedings

A. During the pendency of any administrative or judicial proceeding regarding due process, the student involved shall remain in the current educational placement unless the parent and the LEA agree otherwise.

B. If the hearing involves an application for initial admission to a public school, the student with the consent of the parents, shall be placed in the public school program of the LEA until the completion of all the proceedings.

C. If the decision of a State Level Review Panel, as described in §1510 of these regulations in an administrative appeal agrees with the parent that a change of placement is appropriate, that placement shall be treated as an agreement between the State or the LEA and the parents for the purposes of §1514.A of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1515. Costs

LEAs shall be responsible for paying administrative costs or reasonable expenses related to participation of LEA personnel in a hearing or appeal. The expenses of the hearing officer, the review panel, and stenographic services shall be paid by the Department in accordance with its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1516. Surrogate Parents

A. An LEA shall ensure that the rights of a student are protected if no parent (as defined in §1904) can be identified; if the LEA, after reasonable efforts, cannot discover the whereabouts of a parent; or if the student is a ward of the State (including a ward of the court or of a State agency).

B. A surrogate parent may represent the student in all matters relating to the identification, evaluation, and educational placement of the student and the provision of a free appropriate public education

C. A method for determining whether a student needs a surrogate parent and for assigning a surrogate parent shall be developed and implemented by each LEA.

1. A person assigned as a surrogate parent has no interest that conflicts with the interests of the student and; he/she is not an employee of the Department, the LEA, or any agency involved in the education or care of the student.

2. The person assigned shall have knowledge and skills that ensure adequate representation of the student.

D. An LEA may select as a surrogate parent a person who is an employee of a private agency that only provides only noneducational care for the student and who meets the standards in §1515 C of Bulletin 1706, Subpart B.

E. Payment of fees for service as a surrogate parent does not, in and of itself, render a person an employee of the LEA.

F. Any person appointed as a surrogate parent is protected by the "limited liability" of R.S. 17:1958.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1517. Confidentiality of Information

A. The Department shall have established policies and procedures for the implementation of the confidentiality requirements the Family Educational Rights and Privacy Act (FERPA) of 1974.

B. The Department shall have given adequate notice to inform parents fully about the requirements under identification, location, a evaluation of exceptional students.

1. The notice shall provide a description of the extent to which the notice is given in the native languages of the various population groups in the State.

2. The notice shall provide a description of the students on whom personally identifiable information is maintained, the types of information sought, the method the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information.

3. The notice shall provide a summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information.

4. The notice shall provide a description of all of the rights of parents and students regarding this information, including the rights under the FERPA.

5. Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers, or media, or both, with circulation adequate to notify parents throughout the state of the activity.

C. In ensuring access rights, each LEA shall permit parents to inspect and review any educational records relating to their child which are collected, maintained or used by the LEA under these regulations. The LEA shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student, and in no case shall the time exceed 45 days after the request is made. The LEA shall not destroy any educational records if there is an outstanding request to inspect and review the records.

1. The right to inspect and review any educational records includes the following:

a. the right to a response from the LEA to reasonable requests for explanations and interpretations of the records,

b. the right to request that the LEA provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records, and

c. the right to have a representative of the parent inspect and review the records when written permission by the parent is presented.

2. Any LEA may presume that parents have the authority to inspect and review records relating to his or her child unless the LEA has been advised that the parents do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

D. In ensuring record of access, each LEA shall keep a record of parties attaining access to education records collected, maintained or used under these regulations (except access by parents or authorized parties of the LEA), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the record.

E. When any educational record includes information on more than one student, the parents of those students shall have a right to inspect and review only the information relating to their child or to be informed of that specific information.

F. Each LEA shall provide parents, on request, a list of the types and locations of education records collected, maintained or used by the LEA.

G. Each LEA may charge a fee for copies of records that are made for parents under these regulations if the fee does not effectively prevent the parents from exercising their right to inspect and review those records; but an LEA may not charge a fee to search or retrieve information under these regulations.

H. Amendments of records at parents' request shall follow prescribed guidelines.

1. The parents shall have a right to have the child's records amended when the parent believes that the information contained in the records is inaccurate, misleading, or otherwise in violation of the privacy or other rights.

2. After the receipt of a request by a parent of a G/T student to amend the student's record, the LEA shall decide within a reasonable time whether to amend the student's record.

3. If the LEA refuses to amend the records as requested by the parent, the LEA shall inform the parents of the right to request a hearing as stated below.

I. The LEA shall, on request, provide an opportunity for a hearing to challenge information in educational records to ensure that they are not inaccurate, misleading, or otherwise in violation of the parents' and child's privacy or other rights of the students.

1. A hearing under these regulations shall be conducted according to the procedures under the Family Educational Rights and Privacy Act (FERPA).

J. Results of a hearing regarding records have the following stipulations.

1. If, as a result of a hearing, the LEA decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parents in writing.

2. If, as a result of a hearing, the LEA decides that the information is not inaccurate, misleading, or otherwise in violation of privacy or other rights, the parents shall be afforded a right to place in the record comments they may have concerning the records or comments setting forth any reasons for disagreeing with the decision of the agency.

3. Any explanations placed in the record shall be maintained by the LEA as part of the records of the student as long as the record portion is maintained by the LEA; and if the records of the student or the contested portion are disclosed by the LEA to any party, the explanation shall also be disclosed to the party.

K. Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of the LEA collecting or using the information under these regulations subject to K.2 below of this section, or used for any purpose other than meeting a requirement of these Regulations.

1. A LEA or institution subject to the FERPA may not release information from education records to another LEA without parental consent unless authorized to do so under FERPA.

2. If parents refuse to provide consent under this Section, the requesting agency may file a written compliant.

Such a compliant shall be investigated by the Division according to adopted procedures for compliant management.

L. Each LEA shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

1. One official at each LEA shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

2. Any persons collecting or using personally identifiable information shall receive training or instruction regarding the State's policies and procedures.

3. Each LEA shall maintain for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

M. The LEA shall inform parents when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student.

1. The information shall be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed may be maintained without time limitation.

N. All rights of privacy afforded to parents are afforded to G/T students.

1. Under the regulations for the Family Educational Rights and Privacy Act of 1974, the rights of parents regarding education records are transferred to the student at age eighteen.

2. If the rights accorded to parents are transferred to a student who reaches the age of majority, the rights regarding educational records shall also be transferred to the student. However, the LEA shall provide any notice required, to the student and the parent.

O. *The Compliance Monitoring Procedures* includes the policies, procedures and sanctions that the State uses to ensure that the requirements of these Regulations are met.

P. Discipline procedures for G/T students are the same as for regular education students if no other *Pupil Appraisal Handbook* exceptionality is identified.

1. Discipline information remains with the regular education records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1518. Transfer of Parental Rights at the Age of Majority

A. When a G/T student reaches the age of majority (18 years of age), which applies to all students, he or she shall be afforded those rights guaranteed at such age.

1. The LEA shall provide any notice required by these regulations to both the individual and the parent; and all rights accorded to parents under these regulations transfer to the student.

2. All rights accorded to parents under these Regulations shall transfer to students who are incarcerated in an adult or juvenile, State or local correctional institutions.

3. Whenever rights transfer under these Regulations pursuant to paragraph §1518.A, 1 and 2 of Bulletin 1706, Subpart B, the LEA shall notify the individual and the parent of the transfer of rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 16. Establishment and Operation of Special School District

§1630. General Responsibilities

A. Whenever a student enters the jurisdiction of the SSD consistent with the requirements of these regulations, SSD shall be responsible for either providing or causing to be provided all needed educational services to each student in full compliance with provisions of Chapter 4 of these regulations, and/or as stipulated in SDE *Bulletin 741*, as listed below.

1. The necessary certified personnel to ensure the conduct of an Individual Evaluation for each student within its jurisdiction in accordance with all requirements of §430-436 of these Regulations.

2. The development and implementation of an IEP for each G/T student in accordance with §1440-1446 of these regulations accordance with §1440-1446 of these Regulations.

3. Adequate administrative and instructional personnel to implement each student's educational plan.

4. Adequate personnel to establish and maintain the appropriate relationships with each affected LEA to provide for a smooth transition of educational services for each student leaving SSD.

5. The transmission of all educational records of a student leaving SSD to the LEA in which the student will be enrolled or seeking to be enrolled.

6. The adherence to all procedural safeguards of Chapter 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1693. Procedural Safeguards

Students and parents of G/T students enrolled in SSD shall be provided the procedural safeguards in accordance with Chapter 15 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1695. Monitoring and Compliant Management

Special School District shall develop an internal monitoring and compliant management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1695. Monitoring and Compliant Management

Special School District shall develop an internal monitoring and compliant management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 17. Responsibilities of State Board Special Schools

§1705. General Responsibilities

A. Whenever a G/T student enters a State Board Special School in compliance with §401.D.6 of these regulations,

provision for a FAPE will be the responsibility of the LEA with jurisdiction .

B. State Board Special Schools shall, upon admitting a G/T student, assume the responsibility for providing the student a free appropriate public education in full compliance with all provisions of Chapter 14 of these regulations, including those related to child search, evaluation, IEP development and implementation, and placement; the provision of special education and related services; adherence to procedural safeguards; and certification of staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1707. Enrollment (Admission and Release)

A. Eligible students with exceptionalities shall be admitted to State Board Special Schools according to admission procedures established by the State Board Special School, approved by the State Board.

B. G/T students admitted to State Board Special Schools shall be released from enrollment according to procedures established by the State Board Special School, approved by the State Board, and in compliance with these regulations.

1. G/T students currently enrolled in State Board Special Schools shall not be referred to a city/parish LEA without a review of the current IEP/Placement (in compliance with §1440) being conducted by the State Board Special School and an LEA representative. *Notification of placement change consideration shall be made in writing to the LEAs before the IEP committee meeting.*

2. Prior to the release of any student placed in a State Board Special School through out- of- district placement procedures, the Division shall review and approve each release.

C. State Board Special Schools may enter into interagency agreements with Special School Districts for cooperative supportive efforts in the provision of services, such as child search, evaluation and coordination.

D. Admission to a State Board Special School does not necessarily mean that all educational services described in the IEP of the student shall be provided within such facility. Wherever appropriate, consistent with the rules for a least restrictive environment in §446, students admitted to State Board Special School programs shall participate in educational programs operated by city/parish school systems serving the geographic attendance area in which the facility is located.

§1709. Child Search Activities

State Board Special Schools shall cooperate with each LEA in which the parents of a G/T student enrolled in the State Board Special School are domiciled to permit the LEA to carry out its ongoing responsibility with respect to child search when a student is in a State Board Special School.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1712. Individual Evaluation

Individual evaluations in State Board Special Schools shall be conducted in compliance with all requirements of §1430-1436 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1713. IEP/Placement

IEP/Placement of students enrolled in a State Board Special School shall be reviewed or revised and implemented in accordance with §440-459 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1714. Procedural Safeguards

G/T students and parents of G/T students enrolled in a State Board Special School shall be afforded all the procedural safeguards provided by Chapter 5 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 18. Interagency Agreements

§1801. General Statement

A. Under R.S. 17:1941-1958 et seq., the SBESE has authorized the Department, Division of Special Populations under R.S. 17:1941-1958 et seq., to enter into any agreement developed with another public or private agency, or agencies, whenever such an agreement is consistent with the regulations; is essential to the achievement of full compliance with the regulations; is designed to achieve or accelerate the achievement of the full educational goal for all G/T students; and is necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the State. Each LEA and the Department shall enter into all interagency agreements or other mechanisms for interagency collaboration specified in the regulations by following all the requirements in this part.

B. As used in this part, *interagency agreement* means an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1810. Relationship Between LEAs and the Department

The relationship between the Department and the LEAs is defined by these regulations in regard to providing a free appropriate public education to G/T students. Interagency agreements are not necessary to define such relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1820. Purpose of Interagency Agreements

A. The purpose of interagency agreements is to assure that the standards established by State mandates and the SBESE to ensure a free appropriate public education for G/T students are upheld when they are implemented by an approved public or private agency not within the governance of the SBESE.

B. The agreements are mandated to provide maximum use of both human and fiscal resources in the delivery of

special education and related services and to identify or define a method for defining financial responsibility of each agency.

C. Agreements may be entered into with parties both inside and outside the state of Louisiana with special consideration being given to abide by the rules for least restrictive environment. Nothing in any agreement shall be construed to reduce assistance available or to alter eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1830. Types of Interagency Agreements

SDE and SSD shall have agreements with the Department of Health and Hospitals (DHH), the Department of Social Services (DSS), and the Department of Public Safety and Corrections (DPS&C), and/or other state agencies and their sub-offices where appropriate. LEAs shall have those agreements whenever necessary for the provision of a free appropriate public education. The State School for the Deaf, State School for the Visually Impaired and the State Special Education Center now under the auspices of SSD shall have interagency agreements with 1) the LEA in whose geographic area they are located, 2) each LEA that places a student in the day programs of that facility, 3) regional state agencies, and 4) habilitation agencies with whom they share students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1840. Mandatory Content of Interagency Agreements

A. Each agreement shall contain in writing information specified by Federal and State mandates and SBESE policy as listed below:

1. A statement describing the disparate governance being dealt with by the parties of the agreement.
2. The reason for writing the agreement.
3. The responsibilities of each party of the agreement for providing a FAPE, including policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services of service.
4. An identification of or a method for defining financial responsibility of each agency providing services, including conditions and terms of reimbursement.
5. All applicable State and Federal standards that will apply to the agreement being developed.
6. The data to be exchanged and the methods for exchanging it.
7. The statements with respect to Child Search and confidentiality issues.
8. The monitoring schedule and procedures.
9. The duration of the agreement.
10. The process for amending the agreement, to include the statement to the effect that the contract may be terminated upon thirty days written notice and the disposition of data/materials collected to that point.
11. Any information specific to an agency which is necessary for approval of the agreement by the Department.
12. The titles, names, and signatures of individuals authorized to enter into such agreements.

B. Interagency agreements shall be reviewed annually. It shall not be necessary to write a new agreement if there is documentation between parties that the existing signed agreement is still agreeable to all parties.

C. In addition, the agreements shall contain the three statements listed below for conformance to Division of Administration requirements.

1. The contractor shall not assign any interest in this contract and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the State, provided, however, that claims for money due or to become due to the Contractor from the State may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State

2. The Contractor shall agree to abide by all of the provisions of Louisiana Revised Statutes 43:31 in regard to printing of public documents. The contractor shall agree that prior to the final publication of any reports, documents, or publications of whatever nature for delivery to or used by the State, that the final proofs will be proofread by personnel of the Department and that no final printing will occur until the Contractor has been advised by the Department in writing that the text of materials to be printed has been proofread and approved.

3. It is hereby agreed that the Legislative Auditor of the State of Louisiana and/or the Office of the Governor, Division of Administrator auditors shall have the option of auditing all accounts of Contractor which relate to this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1860. Resolving Interagency Disputes

A. The steps to be followed to resolve interagency disputes, to include funding, in an expeditious manner have been prescribed by the SBESE.

1. For agency disputes between educational agencies over which the SBESE has control, regular complaint procedures shall be followed.

2. Interagency disputes at the local, regional, or state level which involve either program or financial responsibility will be referred to the Office of the Governor.

3. If a dispute continues beyond these interventions, either party of the dispute may seek resolution from a court of competent authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 19. Definitions

§1901. Terms

The terms defined in §1902-1999 of this Chapter are used throughout these regulations. Unless expressly provided to the contrary, each term used in these regulations shall have the meaning established by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1902. Abbreviations/Acronyms Used in These Regulations

A. DSS—State Division of Social Services
B. DHH—State Department of Health and Hospitals
C. DPS&C—State Department of Public Safety and Corrections

D. FAPE—Free Appropriate Public Education
E. FERPA—Family Educational Records and Privacy Act of 1974

F. G/T—Gifted and/or Talented
G. IDEA—Part B of the Individuals with Disabilities Education Act amends the Education for All Handicapped Children Act of 1975 formerly known as EHA (P.L. 94-142).

H. IEP—The Individualized Education Program required by §440 of these Regulations

I. LEA—Local Education Agency
J. LRE—Least Restrictive Environment
K. SBESE—State Board of Elementary and Secondary Education

L. Section 504—Section 504 of the Rehabilitation Act of 1973, 29 USC 706 and the Regulation issued by the U.S. Department of Education at 45 CFR 84

M. SSD#1 and SSD#2—Special School District Number One and Two

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1903. Abbreviated Terms

A. The Act—Sections 1941 through 1958 of Chapter 8 of Title 17 of Louisiana Statutes of 1950, as amended

B. The Department—The State Department of Education

C. The Division—The Division of Special Populations of the Louisiana Department of Education

D. The State—The State of Louisiana

E. The State Board—The State Board of Elementary and Secondary Education

F. The State Board Special Schools—The Louisiana Special Education Center; The Louisiana School for the Deaf; The Louisiana School for the Visually Impaired

G. The Superintendent—The State Superintendent of Public Elementary and Secondary Education

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

§1904. Definitions

Age of Majority—as defined in Louisiana means eighteen years of age.

At No Cost—all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to regular education students or their parents as a part of the regular educational program.

Business Day—Monday through Friday, except Federal and State holidays (unless holidays are specifically included in the designation of business day).

Child Search Coordinator—the LEA employee who is responsible for the child search and child identification activities including that of locating the student. Child search in these regulations equates to Child Find in IDEA.

Combination Self-contained and Resource Classroom—is an alternative education placement in which the same teacher provides special education instruction for students

who receive instruction in various special education alternative placements. These placements include self-contained, resource, and regular class.

Confidentiality of Information—involves the storage, disclosure to third parties, retention and destruction of personally identifiable information.

Consent—means that:

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. the parent understands and agrees in writing to the carrying out of activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e. does not negate an action that has occurred after the consent was given and before the consent was revoked).

Counseling Services—services provided by qualified social workers, psychologists, guidance counselors, or otherwise qualified personnel.

Day—calendar day unless otherwise indicated as business day or school day.

Destruction—physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Due Process—See §1507. of these regulations.

Education Records—the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

Educational Diagnostic Services—include:

1. identifying special needs of students by providing: consultation and collaboration with teachers, school administrators, students and parents, classroom, observations and academic support services;

2. preventing educational problems through early identification of at risk students;

3. consulting with teachers and other school staff members in planning, implementing and evaluating school programs and strategies to meet the educational needs of individuals and groups of students;

4. designing interventions which will increase success in the academic setting which address academic needs of specific students;

5. administering, analyzing and interpreting informal and formal tests which will assist in identifying educational strengths and/or weaknesses in students who may need special education and related services;

6. working as part of a multidisciplinary team to assess the educational psychological, social and health needs of individual students.

Educational Service Agency—a regional public multiservice agency that is authorized by State law to develop, manage, and provide services or programs to LEAs and recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the state. This authorization includes any other public

institution or agency having administrative control and direction over a public elementary or secondary school and includes entities that meet the definition of intermediate educational unit.

Equipment—machinery, utilities, and built-in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

Excess cost—those costs that are in excess of the average annual per student expenditure in a LEA during the preceding school year for an elementary or secondary school student, as may be appropriate.

Evaluation—is a multidisciplinary evaluation of a child/student, ages 3-21 years, in all areas of suspected exceptional ability through a systematic process of review, examination, interpretation, and analysis of screening data, developmental status, intervention efforts, interviews, observations, test results, as required, and other assessment information relative to the predetermined criteria as defined in the *Pupil Appraisal Handbook*.

Evaluation Coordinator—is the pupil appraisal person who, in addition to serving as an examiner in the individual evaluation, is assigned the responsibilities described in §1433 for a particular student.

Free Appropriate Public Education (FAPE)—special education and related services that:

1. are provided at public expense, under public supervision and direction, and without charge;
2. meet the standards of the Department;
3. include preschool, elementary school, or secondary school education in the State; and
4. are provided in conformity with an IEP.

Foster Parent—See Parent.

Gifted—children or youth who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude.

IEP Team—See §1441. of these regulations.

Include—the items named are not all of the possible items that are covered, whether like or unlike the one named.

Independent Educational Evaluation—an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student in question. See §1503 of these regulations.

Individualized Education Program—a written statement for each G/T student developed, reviewed, and revised in a meeting in accordance with §1440-1445.

Individualized Education Program—a written statement for each G/T student developed, reviewed, and revised in a meeting in accordance with §1440-1445.

Instruction in Regular Class—is an alternative education placement for eligible G/T students who receive special education and related services less than 21 percent of the school day outside the regular classroom.

Interagency Agreement—an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed. The

statement is drawn up to be consistent with the mandatory provision of Part 1800 of *Bulletin 1706, Subpart B*.

Least Restrictive Environment—the educational placement of a G/T student in a manner consistent with the Least Restrictive Environment Requirements in §1446 of *Bulletin 1706, Subpart B*.

LEA—a public board of education or other public authority legally constituted within the state either to provide administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, parish, school district, or other political subdivision of the state. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school including a public charter school that is established as a LEA under state law.

Native Language—when used with reference to an individual of limited English proficiency, means the language normally is used by that individual, or in the case of a student, the language normally used by parents of the student. In all direct contact with the student, including the evaluation of the student, the language normally used by the student in the home or learning environment. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, braille, or oral communication).

Nonacademic and Extracurricular Activities—See §446.A.10. of *Bulletin 1706, Subpart B*.

Parent—

1. a natural or adoptive parent of a child;
2. a guardian but not the State if the child is a ward of the State;
3. a person acting in the place of a parent such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare; or
4. a surrogate parent who has been appointed in accordance with §1516 of *Bulletin 1706, Subpart B*. A foster parent may act as a "parent" under these regulations when the natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law, and the foster parent:
 - a. has an ongoing, long-term parental relationship with the child;
 - b. is willing to make the educational decisions required of parents under these regulations; and
 - c. has no interest that would conflict with the interest of the child. Louisiana Law requires that the rights and responsibilities of a parent established by these regulations shall be exercised by the G/T student who attains the age of 18 years.

Parent Counseling and Training—as a related service means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

Participating Agency—for confidentiality purposes, means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained under these regulations.

Personally Identifiable—information includes:

1. the name of the student, the student's parent, or other family member;
2. the address of the student;
3. a personal identifier, such as the student's social security number or student number; or
4. a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

Prior Notice—See §1504. of these regulations.

Psychological Services—as a related service includes:

1. administering psychological and educational tests and other assessment procedures;
2. interpreting assessment results;
3. obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
4. consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, and behavioral evaluations;
5. planning and managing a program of psychological services, including psychological counseling for students and parents; and
6. assisting in developing positive behavior intervention strategies.

Public Agency—includes the SEA, LEAs, public charter schools that are not otherwise included as LEAs or ESAs and are not a school of a LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to G/T students.

Public Charter School—See §1403. of these regulations.

Public Expense—the LEA either pays for the full evaluation when an independent educational evaluation is being conducted or ensures that the evaluation is otherwise provided at no cost to the parent.

Pupil Appraisal Personnel—personnel who meet the certification requirements for school personnel for such positions and who are responsible for the delivery of pupil appraisal services included in §1410-1436 in these Regulations.

Qualified Personnel—personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education and related services.

Related Services—transportation and such developmental, corrective, and other supportive services as are required to assist a G/T student to benefit from special education. Related services include speech/language pathology and audiological services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in students, counseling services including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parental counseling and training.

Resource Departmentalized—is an instructional setting in which students receive instruction from more than one special education teacher and each teacher teaches only a single content or subject matter area. The pupil/teacher ratio shall be consistent with those listed in Chapter 10 of these regulations. Instruction is provided for not more than the

maximum allowed for that exceptionality in a self-contained class at any given period.

Resource Room—is a type of alternative education placement for special education and related services designed or adapted as a location where G/T students may receive all or a part of the special education required by their IEPs, and in which all of the following exist:

1. the pupil/teacher ratios established in Chapter 20 are used;
2. only G/T students are enrolled;
3. instruction is provided for not more than 12 students;
4. special education is provided by a teacher certified generically or in the area of exceptionality for which special education is provided;
5. students receive special education and related services for at least 21 percent, but no more than 60 percent, of the school day outside the regular classroom.

School Building Level Committee—is a committee of at least three school level staff members; it may be identified as an SBLC, SAT, STAT, etc., at the discretion of the LEA. The committee shall be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included—such as the guidance counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a decision-making group that meets on a scheduled basis to problem solve concerns from teachers, parents, or other professionals on individual students who are experiencing difficulty in school because of academic and/or behavior problems. In most instances, for enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal services for an individual evaluation.

School Day—any day, including a partial day, that students are in attendance at school for instructional purposes. School day has the same meaning for all students in school.

School Health Services—as a related services means services, as defined in the *Pupil Appraisal Handbook*, provided by a certified school nurse or other qualified person.

Self-contained Departmentalized—is an instructional setting in which students receive instruction from more than one special education teacher and in which each teacher teaches only one content area or subject matter. Pupil/teacher ratios shall be consistent with those listed in Chapter 10 of these regulations. Instruction is provided for not more than the maximum number allowed for that exceptionality in a self-contained class at any given period.

Self-contained Special Education Class—is a type of alternative education placement in which special education instruction and related services are provided outside the regular classroom more than sixty percent of the school day.

Social Work Services in Schools—as a related service includes preparing a social or developmental history on a G/T student; group and individual counseling with the student and family; working in partnership with parents and others on those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; and mobilizing school and community resources to enable the student to learn as effectively as

possible in his or her educational program and assisting in developing positive behavioral intervention strategies.

Special Education—specially designed instruction, at no cost to the parent, to meet the unique needs of the student with an exceptionality.

Specially Designed Instruction—adapting, as appropriate, to the needs of an eligible student under these regulations, the content, methodology or delivery of instruction to address the unique needs of the student.

Student with an Exceptionality—a student who, when evaluated in accordance with §1430 - 1436 of Bulletin 1706, Subpart B, was determined according to the *Pupil Appraisal Handbook* to have an exceptionality that significantly affects educational performance to the extent that special education is needed.

Supplementary Aids and Services—aids, services, and other supports that are provided in regular education classes or other education-related settings to enable G/T students to be educated to the maximum extent possible.

Surrogate Parent—See §1516. of these regulations.

Talented—is possession of measurable abilities that give evidence of unique talent in visual and/or performing arts.

Transportation—as a related service, means transportation required to assist a G/T student to benefit from a special education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Chapter 20. State Program Rules for Special Education

§2001. Pupil/Teacher, and Pupil Appraisal Ratios for Public Education

A. In providing services to all identified exceptional students, the number of students in each instructional setting shall not exceed the following numbers:

Setting	Preschool	Elementary	Secondary
Self-Contained		25	27
Resource Center		55	55
Resource or Self-Contained Departmentalized		93	98
Instruction in Regular Class		25	27
Resource		30	30
Pre-school			
A. Full Day	19		
B. Half Day	23		

B. Pupil appraisal members shall be employed by LEAs at the following rate:

1. Public School Ratios Based on Membership Educational Diagnosticians 1:2,400 or major fraction thereof.
2. School Psychologists 1:2,400 or major fraction thereof.
3. Social Workers 1:3,200 or major function thereof.
4. LEAs may substitute one pupil appraisal professional for another provided that all pupil appraisal services are provided in accordance with these regulations and the *Pupil Appraisal Handbook*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

Part A. State Funding and Program Rules for Gifted/Talented Students

I. Cost of Determining a Minimum Foundation Program for Gifted/Talented

The Minimum Foundation Program (MFP) formula determines the cost of a minimum foundation program of education in all public elementary and secondary schools and helps to allocate the funds equitably to parish and city school systems. The MFP formula also recognizes increased costs for providing services to gifted/talented students by placing additional funding weights on G/T students. For specific fiscal and compliance issues refer to *Minimum Foundation Program Handbook*.

II. Certification Requirements

Personnel providing services to gifted/talented students shall currently meet all applicable standards as specified in *Louisiana Standards for State Certification of School Personnel (Bulletin 741)*.

III. Travel and Preparation Time

A. Each teacher providing instruction in an itinerant special education program shall be afforded adequate travel time and one instructional period per day for preparation and consultation with the student's regular teacher and other applicable school personnel.

B. Each teacher providing instruction in a resource room shall be afforded one instructional period per day for preparation and consultation with the student's regular teacher and other applicable school personnel.

Interested persons may submit written comments until 4:30 p.m., June 9, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units resulting from these proposed rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated impact on revenue collections of state or local governmental units as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this rule would not increase cost or diminish benefits to Gifted/Talented students in their education programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from these proposed rule changes.

Marlyn Langley
Deputy Superintendent
0004#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Child Nutrition Program (LAC 28:I.943)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Louisiana Administrative Code 28:I.943*, promulgated by the Board of Elementary and Secondary Education in LR 15:9 (January 1989). The major change in the Child Nutrition Program Appeals Procedure is to increase the timeline for scheduling and holding a hearing from 30 days to 90 days after the receipt of a request for appeal from an institution that is participating in, or applying to participate in, the United States Department of Agriculture meal reimbursement program. Other technical changes involve correction of the name of the section within the Louisiana Department of Education to whom appeal requests are submitted, and to clarify when the time frame for submission of the appeal results begins.

Title 28

EDUCATION

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

Subchapter B. State Plans

§943. Louisiana Child Nutrition Program Regulations

A. - B.1.a. ...

2. Louisiana Child Nutrition Programs Appeals Procedures

a. Purpose. The rules and regulations contained in this Subpart shall govern and control procedures used by the Louisiana Department of Education, Division of Nutrition Assistance (hereafter referred to as state agency) for taking action against a school food authority or a child and adult care food program sponsor (hereafter referred to as institution).

b. Service

i. The service of the Notice of Proposed Action, Request for Appeal and Decision shall be made personally or by official U.S. postal certified mail, return receipt requested.

ii. Service upon an institution's authorized representative, officer, or agent constitutes service upon that institution.

iii. Service by certified mail is complete upon the date of receipt. An official U.S. postal receipt from the

certified mailing constitutes prima facie evidence of service. Any other orders, notices, or documents served or exchanged pursuant to these rules shall be done through personal service or the U.S. mail, all postage prepaid.

(a). For purposes of determining whether services have been timely made, if the last day of any deadline established by these rules falls on a weekend or a state holiday, service is considered timely made if received on or before the close of business of the next business day. If the deadline for service falls on a business day, service must be made before close of business that day.

C. Notice of Proposed Action. The state agency shall notify the institution, in writing, of the actions being taken through a "Notice of Proposed Action." This notice shall contain the following information:

1. a list of specific violations of program rules and regulations alleged to have been committed by the institution;

2. the specific amount of the fiscal sanction assessed against the institution, if any;

3. a statement specifying what action the institution must take to correct the violation(s) to avoid further proceedings;

4. a statement of the time lines related to the proposed action;

5. a statement as to the consequences for failing to timely take corrective actions, make payments, or make a Request for Appeal;

6. a statement of the institution's right to appeal the proposed action.

D. Request for Appeal

1. Institutions wishing to appeal proposed actions shall serve a Request for Appeal upon the agency designated in the Notice of Proposed Action within 15 calendar days from the date of receipt of the Notice of Proposed Action.

2. The Request for Appeal shall contain the following information:

a. a listing of what specific violations set forth in the Notice of Proposed Action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation;

b. a statement specifying which of the following two forms of appeal an institution seeks:

i. a review of the records with the right to submit additional written information to dispute the proposed action; or

ii. a hearing. Appeals will be conducted by a fair and impartial hearing officer. The institution may be represented by legal counsel or another designated individual.

c. a statement as to the relief or remedy the institution seeks from the appeal.

E. Appeals on the Record; Submissions

1. Institutions opting to appeal proposed actions by a review of the record shall submit all documents and information, in written form, that they wish to have considered in the appeal to the hearing officer within 30 calendar days from the state agency's receipt of the Request for Appeal.

2. The state agency shall submit all documents and written information it wishes to have considered to the

hearing officer within 30 calendar days from the state agency's receipt of the Request for Appeal.

F. Notice and Time of Hearing. If a hearing is requested, the hearing officer shall schedule a hearing to be held within 90 calendar days from the date of receipt of the Request for Appeal by the designated agency. The hearing officer shall notify the institution in writing of the time, date, and place of the hearing, at least 10 calendar days in advance of the date of the hearing.

G. Effect of Appeal Upon Agency Actions. The Notice of Proposed Action issued to the institution shall remain in effect until the decision is rendered in the appeal. Participating institutions may continue to operate under the program during an appeal of a proposed action, unless the state agency action is based on imminent dangers to the health or welfare of children and that basis is stated in the Notice of Proposed Action. Institutions who continue to operate while appealing a termination shall not be reimbursed for any meals served from the date of service of the Notice of Proposed Action to the date of receipt of the appeal decision, if the decision upholds the termination.

H. Default. The hearing officer may declare any party in default who, without good cause shown:

1. fails to file brief or memorandums or exchange information and evidence as may be required by the hearing officer or these rules;

2. fails to appear at or participate in any pre-hearing conference;

3. fails to appear at or to participate in the hearing.

I. Evidence—Order of Hearing

1. Evidence that is material and relevant to an issue or inquiry before the hearing officer is admissible, unless objected to on grounds set forth herein. The introduction of evidence may be limited or barred upon objection of any party, or by the hearing officer upon his own motions. Hearings conducted under this rule are not bound by the formal rules of evidence prescribed for civil actions in district or higher courts, and in this connection, the following rules apply:

a. Hearsay evidence may be introduced if it corroborates competent evidence found in the record. The hearing officer will determine how much weight, if any, to give to hearsay evidence. Evidence concerning the reliability and probative value of any introduced hearsay evidence may also be admitted.

b. Unduly repetitious evidence, whether testimonial or documentary, shall be excluded when such exclusion will not materially prejudice the rights of a party.

c. The hearing officer may allow oral testimony to be given under direct examination by narration rather than through question and answer. The hearing officer may allow or require any oral testimony to be submitted in written form upon agreement of both parties.

J. Hearing Conduct and Decorum. At any hearing or meeting, the hearing officer shall have the authority to regulate the course of the proceedings and the conduct of all persons present, including the right to have any person, for misconduct or refusal to obey orders, removed from the hearing, banned from further participation or introduction of evidence, dismissed as a party or subjected to such other sanctions or restrictions he deems appropriate. The hearing

officer may, at any time, continue the meeting or hearing to another time and/or location and/or terminate the meeting or hearing to preserve order and decorum. The hearing officer is responsible for insuring that the hearing and/or review of records is conducted in an orderly, fair, and expeditious manner.

K. Decision, Judicial Review, Records

1. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to the reasons for the decision. The decision shall be rendered within 120 days from the receipt of the Request for Appeal by the state agency. The decision shall be served to the institution by the hearing officer and shall constitute the final state agency action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

2. The appeal record, where the institution chooses to submit written information to dispute the state agency action taken against it, shall consist of that written information together with such written information as the state agency chooses to likewise submit to support its Notice of Proposed Action and the decision thereon.

3. The appeal record of a hearing shall consist of the evidence submitted at the hearing, a statement of any matter officially noticed, offers of proof, objections and rulings thereon, a recording of the hearing procedures, and the hearing officer's decision. A verbatim transcript of the recorded proceedings shall not be accomplished unless requested by one of the parties, at its cost, or in the event of a judicial appeal.

4. The hearing officer shall be the custodian of the records. The appeal record shall be maintained for a period of not less than three years from the date the decision is mailed to the institution or the date of the submission of the final claim for reimbursement of the action involving the appeal or resolving of the action, whichever comes later.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 15:9 (January 1989), amended LR 16:297 (April 1990), LR 21:464 (May 1995), LR 26:

Interested persons may submit written comments until 4:30 p.m., June 9, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Louisiana Child Nutrition Program
Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Listed below are the estimated costs for distribution of revised appeal procedures to all institutions participating, or requesting to participate in the School Breakfast and Lunch Programs, and the Child and Adult Care Food Program:

Printing - \$200
Postage - \$400 Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no charge to institutions to receive a copy of the revised appeal procedures; therefore, there will be no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no charge to any institution or individual to receive a copy of the revised appeal procedures, nor will there be any cost or economic benefit to persons consuming the meals being provided by the institutions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The State Division of Administrative Law (DAL) is the agency that the Division of Nutrition Assistance uses for appeal hearings; therefore, there is no effect on competition. Increasing the timeframe for scheduling hearings by the DAL will assist that agency in scheduling/holding hearings while maintaining compliance with the United States Department of Agriculture (USDA), Child Nutrition Program regulations 7 CFR Parts 210-220, 226-245.

Marlyn Langley H. Gordon Monk
Deputy Superintendent Staff Director
0004#068 Legislative Fiscal Office

NOTICE OF INTENT

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

**Tuition Opportunity Program for Students
(TOPS)—Definitions (LAC 28:IV.301)**

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., May 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Program for
Students (TOPS)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost associated with publishing this rule revision in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Since affected students are already award recipients, the four-year cost of their awards are included in the current budget and budget projections. There

- may be an insubstantial increase in the cost of tuition for a TOPS recipient who enters a professional program from an institution which had an undergraduate program that cost less than the highest cost public institution
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.
 - III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS award recipients who achieve the credentials to be admitted to professional schools prior to receiving a bachelor's degree may continue to receive their full four year award.
 - IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
0004#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)—
Definitions (LAC 28:IV. 703, 803)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., May 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. The purpose of this action is to correct the existing rule, therefore costs for funding additional TOPS awards are not anticipated to increase as a result of this rule change. There are no costs inconsistent with current budgetary appropriations for this purpose.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS applicants will have rules that are consistent with statutory core curriculum requirements for the award.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
0004#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)—
Obligation, Deferment and Cancellation
(LAC 28:IV.911 and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., May 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost associated with publishing this rule revision in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Costs for Funding for TOPS—Teacher and Rockefeller awards will not increase as a result of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS—Teacher and Rockefeller award recipients will be provided a less restrictive provision for monetary discharge of their obligation to teach. Repayment will begin only when the former recipient leaves school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
0004#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Beneficial Environmental Projects (BEPs)
(LAC 33:I.2501-2505)(OS037E)**

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 gives notice that rulemaking procedures have been initiated to adopt the Office of the Secretary regulations, LAC 33:I.Chapter 25 (Log #OS037).

This proposed rule serves to facilitate the settlement of environmental actions and promote the use of beneficial environmental projects (BEPs). It establishes guidance for the use of BEPs in the settlement of enforcement cases with the department. Without this rule, projects that are otherwise advantageous to the state may be delayed, withdrawn, or not performed. R.S. 30:2011(D)(1), 2031, and 2050.7 require the department to promulgate rules to regulate the use of BEPs in the settlement of enforcement cases. The basis and rationale for this proposed rule are to establish the use of beneficial environmental projects that will substantially benefit neighboring communities and reduce the load of pollutants discharged into the environment.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Department Administrative Procedures

Chapter 25. Beneficial Environmental Projects

§2501. Applicability

These regulations apply when the department has decided to enter into a settlement in which a beneficial environmental project (BEP) is utilized. The department reserves the right to settle for the amount of cash penalty, if any, it deems appropriate in considering all of the circumstances relating to the case in which the settlement is perfected. The decision to enter into a settlement that includes a BEP is solely within the discretion of the department. Nothing in these regulations requires that the department enter into a settlement or that the settlement include BEPs. Any BEP may be accepted if it meets the terms of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031, and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2503. Definitions

Beneficial Environmental Project (BEP)—a project that provides for environmental mitigation which the defendant/respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of a settlement of a violation(s) or penalty assessment.

Environmental Mitigation—that which tends to lead in any way to the protection from, reduction of, or general awareness of potential risks or harm to public health and the environment. Environmental mitigation includes any and all projects that conform to the requirements set forth in LAC 33:I.2505.

Not Otherwise Legally Required to Perform—the approved project is not required of the defendant/respondent by any federal, state, or local law, regulation, or permit (except that early compliance may be allowed) or actions which the defendant/respondent may be required to perform as injunctive relief in the instant case or as part of a settlement or order in another action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031 and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2505. Project Categories

A. A BEP must be within one or more of the following categories:

1. **Public Health.** A public health project provides diagnostic, preventative, and/or remedial components of human health care that is related to the actual or potential damage to human health caused by a violation of environmental law or mismanagement of substances containing constituents detrimental to human health. This may include, but is not limited to, epidemiological data collection and analysis, medical examinations of potentially affected persons, collection and analysis of blood/fluid/tissue samples, medical treatment, and rehabilitation therapy.

2. **Pollution Prevention**

a. A pollution prevention project is one that reduces the generation of pollution through "source reduction," i.e., any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment, prior to recycling, treatment, or disposal. (After the pollutant or waste stream has been generated, pollution prevention is no longer possible and the waste must be handled by appropriate recycling, treatment, containment, or disposal methods.)

b. Source reduction may include equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, inventory control, or other operation and maintenance procedures. Pollution prevention also includes any project which protects natural resources through conservation or increased efficiency in the use of energy, water, or other materials. In-process recycling, wherein waste materials produced during a manufacturing

process are returned directly to production as raw materials on site, is considered a pollution prevention project.

c. In all cases, for a project to meet the definition of pollution prevention, there must be an overall decrease in the amount and/or toxicity of pollution released to the environment, not merely a transfer of pollution among media. This decrease may be achieved directly or through increased efficiency (conservation) in the use of energy, water, or other materials.

3. Pollution Reduction. If the pollutant or waste stream already has been generated or released, a pollution reduction approach, which employs recycling, treatment, containment, or disposal techniques, may be appropriate. A pollution reduction project is one that results in a decrease in the amount and/or toxicity of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment by an operating business or facility by a means which does not qualify as "pollution prevention." This may include the installation of more effective end-of-process control or treatment technology, or improved containment, or safer disposal of an existing pollutant source. Pollution reduction also includes "out-of-process recycling," wherein industrial waste collected after the manufacturing process and/or consumer waste materials are used as raw materials for production off-site.

4. Environmental Restoration and Protection. An environmental restoration and protection project is one that goes beyond repairing the damage caused by the violation to enhance the condition of any ecosystem or geographic area. These projects may be used to restore or protect natural environments (including ecosystems) and man-made environments (including the removal/mitigation of contaminated materials, such as soils, asbestos, and leaded paint, from facilities and buildings). Also included is any project which protects the ecosystem from actual or potential damage resulting from violations of state environmental regulations or improves the overall environmental condition of the ecosystem or geographic area. Examples of these projects include: restoration of a wetland; purchase and management of a watershed area or environmentally sensitive area; and providing for the protection of endangered species, i.e. developing conservation programs or habitat protection and enhancement.

5. Assessments and Audits

a. The four types of assessments/audits are:

- i. pollution prevention assessments;
- ii. site assessments;
- iii. environmental management system audits; and
- iv. compliance audits.

b. These assessment or audit projects must be performed by an entity approved by the department. The defendant/respondent must agree to provide a certified copy of the assessment or audit to the department along with an implementation report to detail the action(s) taken and/or to defend the facility's decision to forego implementation of the suggested changes listed in the audit report. Settlement agreements which include assessment and/or audit projects may be constructed with stipulated penalty amounts for failure to implement suggested changes included in the report that the department deems appropriate based on an assessment of the certified implementation report provided

by the facility. Assessments and audits may not include projects that are required by enforcement and/or legal requirements.

6. Environmental Compliance Promotion. An environmental compliance promotion project provides training or technical support to identify, achieve and maintain compliance with applicable statutory and regulatory requirements; avoid committing a violation with respect to such statutory and regulatory requirements; go beyond compliance by reducing the generation, release, or disposal of pollutants to a level below the legally required limits; or promote environmental education, including awareness of potential risks or harm to the public health and the environment. In all cases, the department will specify the approved party responsible for developing and providing the environmental compliance promotion project. Acceptable projects may include, but are not limited to, the production and or sponsorship of seminar(s) related to environmental obligations, regulations, and improvement techniques.

7. Emergency Planning, Preparedness, and Response. An emergency planning and preparedness project provides assistance to a responsible state or local emergency planning, preparedness, or response entity. This is to enable these organizations to further fulfill their obligations to collect information to assess the dangers of hazardous chemicals present in a response situation, to develop emergency plans and/or procedures, to train emergency response personnel, and to better respond to emergency situations. These projects may include providing computers and software, communication systems, chemical emission detection and inactivation equipment, or hazardous materials equipment or training.

8. Other Projects. Projects determined by the department to have environmental merit that do not fit within at least one of the seven categories above may be accepted if they are otherwise fully consistent with the intent of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031 and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on May 25, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS037. Such comments must be received no later than June 1, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS037.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA

70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Beneficial Environmental
Projects (BEPs)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units are expected as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
To the extent that the regulated community is allowed to participate in beneficial environmental projects in lieu of the payment of fines and penalties, less revenue will be credited to the Hazardous Waste Site Cleanup Fund. Upon the accumulation of \$6 million in this fund any additional monies which would have been credited to this fund are instead paid into the Environmental Trust Fund.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
In most cases where the beneficial environmental project involves environmental mitigation or restoration, if the cost of a beneficial environmental project is equivalent to the fines and penalties to which an entity might be subject, there will be no net benefit or cost to that entity. Where the beneficial project involves pollution prevention or reduction, an entity may actually realize a net benefit from long term cost savings and reduced liability although the expenditures to achieve the pollution prevention or reduction are equivalent to the fines and penalties to which that entity might be subject.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is expected as a result of this rule.

James H. Brent, Ph.D.
Assistant Secretary
0004#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Fugitive Emission Control
(LAC 33:III.2121)

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 gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.2121 (Log #AQ201).

The proposed rule removes the word "pipeline" and removes a redundant phrase to provide clarification to the regulations for monitoring requirements and exemptions to monitoring requirements for petroleum refineries, SOCOMI, MTBE, and polymer manufacturing industry for fugitive emission control of organic compounds. The basis and rationale for the proposed rule are to provide clarifications to the existing regulations.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

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

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

Subchapter A. General

§2121. Fugitive Emission Control

* * *

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

- ii. valves in liquid service; and

* * *

[See Prior Text in C.1.a.iii - b.i]

- ii. valves in gas service;

* * *

[See Prior Text in C.1.b.iii]

- iv. valves in light liquid service at SOCOMI, MTBE, and Polymer Manufacturing Plants; and
v. pumps in light liquid service at SOCOMI, MTBE, and Polymer Manufacturing Plants.

* * *

[See Prior Text in C.1.c-4.b]

- c. Flanges, inaccessible valves, valves that are unsafe to monitor, check valves (including similar devices not externally regulated). Inaccessible valves should be monitored on an annual basis at a minimum. Unsafe-to-monitor valves should be monitored when conditions would allow these valves to be monitored safely, e.g., during shutdown.

* * *

[See Prior Text in C.4.d-G. Liquid Service]

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 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on May 25, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ201. Such comments must be received no later than June 1, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ201.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fugitive Emission Control**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units for this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to persons or nongovernmental groups as a result of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposal will have no effect on competition or employment.

James H. Brent, Ph.D.
Assistant Secretary
0004#020

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Laboratory Accreditation
(LAC 33:I.4501, 4503, 4701-4707, 4711,4717, 4719, 4901, 5103, 5303, 5311, 5315, 5701, 5705, 5901-5915)(OS035)

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 gives notice that rulemaking procedures have been

initiated to amend the Office of the Secretary regulations, LAC 33:I.Subpart 3 (Log #OS035).

The laboratory accreditation rule requires accreditation of commercial environmental laboratories by the department every three years. The accreditation program requires third-party audits, submission of samples for independent analysis, and inspection of regulated laboratories. The rule provides for quality assurance/quality control procedures, laboratory personnel qualifications, and sampling protocol. The proposed rule establishes the requirements to ensure the quality of data generated by commercial environmental laboratories that are accredited by the department, and provides clarification to facilitate a better understanding of the program requirements. The proposed rule also promulgates the changes made in the emergency rule OS035E, which was effective on December 15, 1999. These changes extend the deadline to apply for accreditation to July 1, 2000, and the deadline for accreditation by the department to December 31, 2000. The basis and rationale for the proposed rule are to provide clarification for the laboratory accreditation rule and to promulgate the changes in the emergency rule, OS035E.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. Description and Intent of Program

1. These regulations provide requirements for an accreditation program specifically applicable to commercial laboratories, wherever located, that provide chemical analyses, analytical results, or other test data to the department, by contract or by agreement, and the data is:

- a. submitted on behalf of any facility, as defined in R.S. 30:2004;
- b. required as a part of any permit application;
- c. required by order of the department;
- d. required to be included on any monitoring reports submitted to the department;
- e. required to be submitted by contract; or
- f. otherwise required by department regulations.

2. The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in the generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department.

* * *

[See Prior Text in B-B.6]

7. radiologicals/radioassays;
8. bioassays/biomonitoring/toxicological testing; and
9. asbestos.

* * *

[See Prior Text in C-E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4503. Definitions

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

* * *

[See Prior Text]

Commercial Laboratory—any laboratory, wherever located, that performs analyses or tests for third parties for a fee or other compensation and provides chemical analyses, analytical results, or other test data to the department, by contract or agreement, and the data is: submitted on behalf of any facility, as defined in R. S. 30:2004; or required as a part of any permit application; or required by order of the department; or required to be included on any monitoring reports submitted to the department; or otherwise required by department regulations. The term commercial laboratory does not include laboratories accredited by the Louisiana Department of Health and Hospitals in accordance with R. S. 49:1001 et seq.

Corrective Action Proficiency Test Sample—a proficiency test sample of known composition provided by an external source (e.g., EPA) that is used to evaluate lab performance after completion of required corrective action(s) of a failed proficiency evaluation test round.

* * *

[See Prior Text]

Field Test—any activity or operation conducted on-site resulting in the measurement of a specific parameter. Field tests are generally conducted at or near the site of sampling and include soil classification, pH, temperature, flow rate, fugitive emissions monitoring of valves, pumps, flanges, etc.

* * *

[See Prior Text]

Interim Status—a status that exists in the accreditation process wherein all application requirements have been met by the laboratory, but formal accreditation status has not been granted by the department. Interim status is granted on a case-by-case basis at the discretion of the department and shall not exceed one year in length.

* * *

[See Prior Text]

NRC—Nuclear Regulatory Commission.

Primary Accrediting Authority—for the purpose of NELAP Accreditation, the Louisiana Department of Environmental Quality, with the exception of those laboratory analyses accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals.

* * *

[See Prior Text]

Traceable Material—any material whose true value or true measurement can be related to a standard reference, usually national or international, all having stated uncertainties (e.g., NIST traceable thermometers, standards, reagents, etc.).

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:918 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 47. Program Requirements

§4701. Accreditation Process

A. The department accreditation process comprises four basic steps:

1. the submittal to the department's Office of Management and Finance, Laboratory Services Division of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

* * *

[See Prior Text in A.2-4]

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4703. Application for Accreditation

* * *

[See Prior Text in A]

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

* * *

[See Prior Text in C-D]

E. In cases where all application requirements have been met, including review of all methodology and quality assurance program data, a special status of "interim status" may be granted at the discretion of the department on a case-by-case basis. Interim status shall not exceed one year in length. Before a laboratory is granted full accreditation, all requirements of these regulations must be met.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4705. Categories of Accreditation

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of

approved methodologies for each parameter/analyte will be maintained by the department's Louisiana Environmental Laboratory Accreditation Program (LELAP) Unit in the Office of Management and Finance, and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

* * *

[See Prior Text in B-B.1]

2. air pollutants including industrial hygiene and Toxic Organic Compounds (T.O.) methods, stack sampling, and ambient air;

* * *

[See Prior Text in B.3-B.8]

9. asbestos;

10. geo-technical properties of soils including, but not limited to, compaction test, permeability, particle size analysis, soils classification, etc.; and

11. minor conventional parameters - BOD₅, oil and grease, TSS, pH, fecal and total coliform, and residual chlorine.

* * *

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:**.

§4707. Fees

* * *

[See Prior Text in A-E]

F. Travel expenses incurred by representatives of the department, traveling within and outside of the state of Louisiana, conducting an assessment/inspection for the purpose of accreditation shall be reimbursed by the laboratory. These rates shall be in accordance with the Division of Administration state general travel regulations, within the limits established for state employees.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4711. Proficiency Testing Participation

* * *

[See Prior Text in A-C]

D. Proficiency testing studies will be available at a minimum of every six months. Laboratories shall participate in two proficiency test studies per year for each field of testing. Failure to meet the minimum semiannual schedule shall be regarded as a failed proficiency test study. Laboratories may set up round robin testing programs under the department's supervision in order to satisfy this requirement, using splits where applicable.

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

F. Each participating laboratory shall authorize the proficiency test provider to release the results of the proficiency evaluation (PE) test to the Office of Management and Finance, Laboratory Services Division at the same time that they are submitted to the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the Office of Management and Finance, Laboratory Services Division along with the submittal of corrective action proficiency sample test results. The laboratory shall report only the analytes for which corrective action was required.

* * *

[See Prior Text in G-J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:**.

§4717. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4719. Implementation

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC 33:I.4701.A.1, including the review fee, by July 1, 2000. The department shall not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section. The department shall not accept environmental data submitted to the department either directly or indirectly until the laboratory has applied for accreditation under these regulations.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 by December 31, 2000, or as otherwise agreed to by the department and the applicant, not to exceed one year from December 31, 2000. The department shall not accept data generated by laboratories that do not comply with these deadlines until such laboratories receive accreditation and fully comply with the requirements of this Section.

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

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

1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 49. Organization and Personnel Requirements

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

A. Managerial Staff. The laboratory shall have the managerial staff with the authority and resources needed to discharge their duties. The technical director or his/her designated representative shall be a full-time member of the laboratory staff who has the authority to exercise the day-to-day supervision of the laboratory policies and procedures. The laboratory shall be organized in such a way that confidence in its independence of judgment and integrity is maintained at all times. The laboratory shall specify and document the responsibility, authority, and interrelation of all personnel who manage, perform, or verify work affecting the quality of calibrations and tests. Such documentation shall include:

* * *

[See Prior Text in A.1-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 51. On-Site Inspection/Evaluation §5103. Laboratory Facilities

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

* * *

[See Prior Text in A.1-5]

6. adequate procedures and facilities in place for collection, storage, and disposal of wastes, including expired chemicals, reagents, solutions, standards, and other material with a limited shelf-life;

* * *

[See Prior Text in A.7-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:924 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 53. Quality System Requirements §5301. Quality Assurance/Quality Control Requirements

A. Each laboratory seeking accreditation shall maintain their Quality Assurance/Quality Control (QA/QC) program using appropriate document control practices. The quality assurance manual, analytical methods, and administrative procedures necessary to meet requirements of these regulations shall be reviewed for accuracy and approved for release by the appropriate personnel, distributed, and

controlled to ensure the use of the current approved version. Each laboratory seeking accreditation shall:

* * *

[See Prior Text in A.1-C]

1. the structure of the laboratory (organizational charts and generic position descriptions) including relationship between management, technical operations, support services, and quality systems;

* * *

[See Prior Text in C.2-6]

7. references to procedures for the control and maintenance of documents, including document control of laboratory notebooks, instrument logbooks, standards logbooks, and records for data reduction, validation, storage, and reporting;

8. the laboratory's procedures for achieving traceability of measurements to NIST reference materials or other traceable commercial vendors;

* * *

[See Prior Text in C.9-14]

15. references to policy and procedures for the resolution of complaints received from clients or other parties. Records of the complaint and subsequent action shall be maintained;

* * *

[See Prior Text in C.16-17]

18. identification of the laboratory's approved signatories; at a minimum, the title page of the quality assurance manual must have the signed and dated concurrence (with appropriate titles) of all responsible parties, including the quality assurance officer(s), technical director, and the laboratory manager;

19. references to processes/procedures for educating and training personnel in their ethical and legal responsibilities, including potential punishment and penalties for improper, unethical, or illegal actions;

20. references to processes/procedures for establishing that personnel are adequately experienced in the duties they are expected to carry out and/or receive any needed training;

21. references to procedures for reporting analytical results; and

22. a table of contents and applicable lists of references, glossaries, and appendices.

* * *

[See Prior Text in D]

E. The laboratory shall conduct annual internal audits to verify the compliance with the laboratory's quality system. The quality assurance officer shall be responsible for planning and organizing audits. Personnel shall not audit their own activities.

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

- 1. methods of analysis:
 - a. identification of the test method;
 - b. applicable matrix or matrices;
 - c. detection limit;
 - d. scope and application, including components to be analyzed;

- e. summary of test method;
- f. definitions;
- g. safety;
- h. equipment and supplies;
- i. reagents and standards;
- j. sample collection, preservation, storage, handling, and chain of custody;
- k. quality control;
- l. calibration;
- m. procedure;
- n. calculations;
- o. method performance;
- p. pollution prevention;
- q. data assessment and acceptance criteria for quality control measures;
- r. corrective actions for out-of-control or unacceptable data;
- s. contingencies for handling out-of-control or unacceptable data;
- t. waste management;
- u. references; and
- v. any tables, diagrams, flowcharts, and validation data;

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

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

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

- 1. all laboratories shall have protocols in place to monitor the following quality controls:
 - a. adequate controls to monitor tests such as blanks, spikes, or reference toxicants;
 - b. adequate tests to define the variability and/or reproducibility of the laboratory results such as duplicates;
 - c. measures to ensure the accuracy of the test data, including sufficient calibration and/or continuing calibrations, use of certified reference materials, proficiency test samples, or other measures;
 - d. measures to evaluate test performance, such as method detection limits, or range of applicability such as linearity;
 - e. selection of appropriate formulae to reduce raw data to final results such as linear regression, internal standards, or statistical packages;
 - f. selection and use of reagents and standards of appropriate quality; and
 - g. measures to assure constant and consistent test conditions (both instrumental and environmental) where

required by the method, such as temperature, humidity, light, or specific instrument conditions;

2. all quality control measures shall be assessed and evaluated on an ongoing basis, and quality control acceptance limits shall be used to determine the validity of the data. The acceptance/rejection criteria shall be updated at a frequency established by the method or by the department's standards;

3. the laboratory shall have procedures for the development of acceptance/rejection criteria where no method or regulatory criteria exists; and

4. the method-specified and/or method-recommended quality control protocols shall be followed. The essential standards shall be used if no protocols are written into the method or if the method protocols are less stringent.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:925 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5303. Equipment and Supplies

[See Prior Text in A-C]

D. Records shall be maintained for each item of equipment and all reference materials significant to the tests performed. Maintenance log book(s) and/or an electronic maintenance database with scheduled backups shall be maintained for all major equipment. Each log shall include:

[See Prior Text in D.1-6]

7. the details of maintenance, including history of any damage, malfunction, modification, or repair.

[See Prior Text in E-H.6.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:926 (May 1998), repromulgated LR 24:1093 (June 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5311. Quality Assurance for Biomonitoring Laboratories

[See Prior Text in A-M.2]

N. Reference toxicants such as sodium chloride (NaCl), potassium chloride (KCl), cadmium chloride (CdCl₂), copper sulfate (CuSO₄), sodium dodecyl sulfate (CH₃(CH₂)OSO₃Na), and potassium dichromate (K₂Cr₂O₇) are suitable for use by the laboratory. Standard reference materials can be obtained from commercial supply houses or can be prepared in-house using reagent grade chemicals.

[See Prior Text in O-O.7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:929 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5315. Records

A. The laboratory shall maintain a record system that shall produce accurate, readily available records that document all laboratory activities. The testing laboratory

shall retain on record all original raw data and observations, calculations and derived data, calibration records, and the final test report in a manner in which the continuity and integrity of the analytical process is preserved. All records shall be maintained for a minimum of 10 years or as required by regulatory or legal requirement. Where computers or automated equipment are used for the capture, processing, manipulation, recording, reporting, storage, or retrieval of test data, the laboratory shall ensure that:

1. computer software is documented and adequate for use;
2. procedures are established and implemented to protect the integrity of data. Such procedures shall include, at a minimum, integrity of data entry or capture, data storage, data transmission, and data processing;
3. computers and automated equipment are maintained to ensure proper functioning and retrieval of data; and
4. procedures are developed and implemented to maintain security of data, including prevention of unauthorized access to, or unauthorized amendment of, computer records.

* * *

[See Prior Text in B-F]

G. The laboratory shall maintain administrative records (e.g., training records) in a manner in which the continuity, integrity, and retrievability processes are preserved.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:931 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 57. Maintenance of Accreditation

§5701. Display of Accreditation Certificate

* * *

[See Prior Text in A-B]

C. The accredited laboratory shall not misrepresent its state or NELAP accreditation documents. This shall include use in laboratory reports, catalogs, advertising, business solicitations, or proposals.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24: 932 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5705. Discreditation and Suspension

* * *

[See Prior Text in A-F.16]

G. If the department discredits/suspends a laboratory, the laboratory shall return the certificate of accreditation to the department within 10 calendar days from receipt of notification of the discreditation or suspension.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 59. Accreditation for Laboratories Participating in the NELAP Certification Program

§5901. Accreditation Process

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

B. The NELAP accreditation process comprises these basic steps:

1. the submittal to the department of a written request from the laboratory in the form of an application provided by the department with the payment of all applicable fees;
2. a review of personnel qualifications;
3. an on-site assessment/evaluation of the laboratory submitting the request/application by authorized representatives of the department with the appropriate laboratory background;
4. the successful participation in the NELAP-approved proficiency evaluations; and
5. a review of the quality assurance/quality control practices, and quality systems in use at the laboratory.

C. When all the requirements for accreditation have been successfully fulfilled, the department shall grant the applicant laboratory a formal notice of accreditation and a certificate of accreditation that lists those fields of testing, methods used by the laboratory, and individual analytes determined by a particular method for which the laboratory is accredited.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5903. Categories of Accreditation

A laboratory may apply for accreditation in any one or more of the nine fields of testing and in one or more of the eleven test categories applicable to the field(s) of testing selected. The laboratory shall be accredited in those parameters/analytes within the test category(ies) found in LAC 33:I.4705.B. The laboratory shall be accredited in those parameters/analytes within the test category(ies) for which the laboratory demonstrates acceptable performance on proficiency samples (when available) and meets all other requirements of these regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5905. Inspections of a Laboratory

A. As a condition of obtaining and maintaining NELAP accreditation, the laboratory shall permit and facilitate

inspections/assessments by personnel or designated representatives of the department. The specific requirements for an on-site inspection are outlined in LAC 33:I:Chapter 51.

B. Inspectors shall conform to appropriate safety procedures during an on-site inspection. The specific requirements for an inspector are outlined in LAC 33:I.4709.B.

C. A comprehensive on-site inspection/assessment of each accredited laboratory shall be conducted at intervals of not more than two years. The department may make an announced or unannounced inspection or assessment of an accredited laboratory whenever the department, in its discretion, considers such an inspection or assessment necessary to determine the extent of the laboratory's compliance with the conditions of its accreditation and these regulations.

D. The primary accrediting authority shall forward a written report of findings to the laboratory within 30 calendar days from the date of the on-site inspection/assessment.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5907. Corrective Action Reports in Response to On-Site Inspections

A. The laboratory shall submit to the department a corrective action plan/report. The plan/report shall include, at a minimum, the action(s) that the laboratory shall implement to correct each deficiency noted in the on-site inspection/assessment report and the time period required to accomplish each corrective action.

1. If the corrective action plan/report is deemed unacceptable, the laboratory shall have an additional 30 days to submit a revised corrective action plan/report.

2. If the corrective action plan/report is deemed unacceptable after the second submittal, the laboratory shall have its accreditation revoked in accordance with section 4.4.3 of the NELAP Standards for all or any portion of its scope of accreditation for any or all fields of testing.

3. If the laboratory fails to implement the corrective actions as stated in their corrective action plan/report, its accreditation shall be revoked.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5909. Proficiency Testing Participation

All laboratories seeking accreditation under NELAP shall participate in the department-approved proficiency testing program as required in LAC 33:I.4711.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5911. Accreditation for Out-of-State Laboratories Seeking NELAP Accreditation

Acceptance of accreditation from another NELAP accrediting authority in that field of testing shall be

determined by the department. The laboratory must comply with these regulations and the standards established by NELAP. NELAP certified laboratories shall be required to meet the requirements for reciprocity as set forth in LAC 33:I.4713.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5913. Certification of Compliance Statement

The Certification of Compliance statement as required in section 4.1.9 of the NELAP standards shall be required. This statement shall be signed by the laboratory manager and the quality assurance officer or other designated person.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5915. Accreditation

A. The period of accreditation shall be one year. To maintain accreditation the laboratory shall meet all requirements of these regulations and the NELAP standards.

B. The department may suspend or discredit a laboratory in any or all of the test categories within the fields of testing for failure to meet the requirements of these regulations and the NELAP standards.

C. The department shall notify the laboratory by registered letter of the suspension or discreditation and the reason for the action.

D. Accreditation shall remain in effect until revoked by the accrediting authority, withdrawn at the written request of the accredited laboratory, or the expiration of the accreditation period.

E. The laboratory may renew accreditation by meeting the requirements outlined in LAC 33:I.5703.

F. Appeals for laboratories that have received discreditation or revocation notices are governed by applicable statutes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on May 25, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS035. Such comments must be received no later than June 1, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS035.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Laboratory Accreditation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes should have no fiscal or economic impact. The proposed changes are for clarification of existing requirements established under the regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes should not affect the revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes should not affect any person or non-governmental groups. The proposed rule changes are for clarification of existing regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not affect employment or competition. The proposed rule changes are for clarification of existing regulations.

James H. Brent, Ph.D.
Assistant Secretary
0004#057

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Reporting Requirements, Availability
of Information, and Public Notice Provisions
(LAC 33:III.5107 and 5112)(AQ 202)

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 gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.5107 and 5112 (Log #AQ202).

The proposed rule reclassifies zinc and zinc compounds from a Class II TAP (suspected human carcinogen and

known or suspected human reproductive toxin) to Class III TAP (acute and chronic, non-carcinogen toxin). Exposure to zinc and zinc compounds has been shown in EPA toxicological studies to cause acute and chronic health effects corresponding to the Class III TAP classification. Also, the proposed rule corrects a typographical error and adds a certification statement to the requirements for initial and subsequent annual emission reports and revisions to any emission report to attest that the information contained in the report is true, accurate, and complete. The basis and rationale for this proposed rule are to correct the reclassification of zinc and zinc compounds to reflect the true adverse health effects on human population from exposure to zinc and zinc compounds and to make other clarifications to the regulations.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

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

* * *

[See Prior Text in A - A.2]

3. Initial and subsequent annual emission reports and revisions to any emission report shall include a certification statement to attest that the information contained in the emission report is true, accurate, and complete, and signed by a responsible official, as defined in LAC 33:III.502. The certification statement shall include the full name of the responsible official, title, signature, date of signature and phone number of the responsible official. The certification statement shall read,

"I certify, under penalty of perjury, that the emissions data provided is accurate to the best of my knowledge, information, and belief, and I understand that submitting false or misleading information will expose me to prosecution under both state and federal regulations."

* * *

[See Prior Text in B - 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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§5112. Tables

Table 51.1 Minimum Emission Rates Toxic Air Pollutants			
CLASS I - Known and Probable Human Carcinogens			
Compounds	Cas No.	Synonyms	Minimum Emission Rate (Pounds/Year)
[See Prior Text in Asbestos (friable) – Benzene]			
Beryllium (and compounds) [1]	7440-41-7	Glucinum	25.0
[See Prior Text in Bis (2-Chloroethyl) Ether – Cadmium (and compounds) [1]]			
Chromium VI (and compounds) [1][12]	7440-47-3		25.0
[See Prior Text in 1,2-Dibromoethane – Vinyl Chloride]			

CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
Compounds	Cas No.	Synonyms	Minimum Emission Rate (Pounds/Year)
[See Prior Text in Acetaldehyde – Styrene]			
1,1,2,2-Tetrachloroethane	79-34-5	Acetylene tetrachloride	300.0
Tetrachloroethylene	127-18-4	Antisol 1, Carbon dichloride, Perchloroethylene	2,800.0
[See Prior Text in Toluene-2,4-Diisocyanate [8] – Vinylidene Chloride]			
CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
Compounds	Cas No.	Synonyms	Minimum Emission Rate (Pounds/Year)
Xylene (mixed isomers) [9]	1330-20-7	ortho-xylene, meta-xylene, para-xylene	20,000.0

CLASS III - Acute and Chronic (Non-Carcinogenic) Toxins			
Compounds	Cas No.	Synonyms	Minimum Emission Rate (Pounds/Year)
[See Prior Text in Acrylic Acid – Vinyl Acetate]			
Zinc (and compounds) [1][12]	7440-66-6		25.0

Explanatory notes:

[See Prior Text in Notes 1-11]

[12] Zinc chromates and zinc arsenates are Class I TAPs regulated as carcinogens under Chromium VI (and compounds) and arsenic (and compounds) TAP categories.

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compounds	Cas No.	Class	Ambient Air Standard	
			(µg/m ³ *) (8 Hour Avg.)	(µg/m ³ **) (Annual Avg.)
[See Prior Text in Acetaldehyde – Antimony (and compounds) [1]]				

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compounds	Cas No.	Class	Ambient Air Standard	
			(µg/m ³ *) (8 Hour Avg.)	(µg/m ³ **) (Annual Avg.)
Arsenic (and compounds)[1] [15]	7440-38-2	I		0.02
[See Prior Text in Asbestos (friable) – Benzene]				
Beryllium (and compounds) [1]	7440-41-7	I		0.04
[See Prior Text in Biphenyl – Chloroprenel]				
Chromium VI (and compounds) [1][15]	7440-47-3	I		0.01
[See Prior Text in Copper (and compounds) [1] – Methyl Isobutyl Ketone]				
Methyl Methacrylate	80-62-6	III	9,760.00	
[See Prior Text in Naphthalene (and Methyl-naphthalenes)[12] – Xylene (mixed isomers) [9]]				
Zinc (and compounds) [1][10][15]	7440-66-6	III	119.00	

Explanatory Notes:

[See Prior Text in Notes *-14]

[15] Zinc chromates and zinc arsenates are Class I TAPs regulated as carcinogens under Chromium VI (and compounds) and arsenic (and compounds) TAP categories.

* * *

[See Prior Text in Table 51.3 Louisiana Toxic Air Pollutants Supplemental List* - Table 51.3 Explanatory Note [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 21:1331 (December 1995), amended LR 22:278 (April 1996), LR 24:1277 (July 1998), LR 25:1237 (July 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on May 25, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ202. Such comments must be received no later than June 1, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ202.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA

71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reporting Requirements, Availability
of Information, and Public Notice Provisions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs (savings) to state or local government are anticipated from this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on local revenue collections. There is a small estimated effect on state revenue collections from this rulemaking. Based on the 1998 zinc emissions, 38 facilities emitted 54.82 tons and were charged \$54/ton. The total fees assessed were \$2,960.28. The newer zinc classification will lower fees to \$27/ton or generate \$1,480.14. A decrease of approximately \$1,500.00 in Environmental Trust Fund revenue is expected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Other than the \$1,500 in reduced zinc fees, no other costs and no significant economic benefits to directly affected persons or non-governmental groups are anticipated by this rulemaking.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition and employment from this rulemaking.

James H. Brent, Ph.D.
Assistant Secretary
0004#021

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Transportation of Radioactive Material
(LAC 33:XV.Chapter 15)(NE021*)

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 gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.1503, 1505, 1506, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, and Appendix A (Log #NE021*).

This proposed rule is identical to federal regulations found in 60 FR 50264, September 28, 1995, Number 188, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from

the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule makes changes to packaging and transportation of radioactive material. The proposed rule conforms state regulations with Nuclear Regulatory Commission (NRC) regulations and codifies criteria for packages used to transport plutonium by air. This action is necessary to ensure that state regulations reflect accepted NRC and international standards and comply with current federal legislative requirements. The basis and rationale for this proposed rule are to maintain state compatibility with the NRC.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1502. Scope

A. Each licensee who transports licensed material outside the site of usage, as specified in the department license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the regulations in this Chapter and the applicable requirements of the U.S. DOT regulations appropriate to the mode of transport of U.S. DOT in 49 CFR parts 170-189.

B. The licensee shall particularly note U.S. DOT regulations in the following areas:

1. packaging—49 CFR part 173, subparts A, B, and I;
2. marking and labeling—49 CFR part 172, subpart D, paragraphs 172.400-172.407, 172.436-172.440, and subpart E.
3. placarding—49 CFR part 172, subpart F, paragraphs 172.500 -172.519, 172.556; and appendices B and C;
4. shipping papers and emergency information—49 CFR part 172, subparts C and G;
5. accident reporting—49 CFR parts 171.15 and 171.16;
6. hazardous material shipper/carrier requirements—49 CFR part 107, subpart G; and
7. hazardous material employee training—49 CFR part 172, subpart H.

C. The licensee shall also note U.S. DOT regulations pertaining to the following modes of transportation:

1. rail - 49 CFR part 174, subparts A - D and K;
2. air - 49 CFR part 175;
3. vessel - 49 CFR part 176, subparts A - F and M; and
4. public highway - 49 CFR part 177 and parts 390 - 397.

D. If U.S. DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. DOT specified in Subsection A of this Section to the same extent as if the shipment or transportation were subject to U.S. DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in

those requirements, must be filed with, or made to, the Director, Office of Nuclear Material Safety and Safeguards, U.S. NRC, Washington, DC 20555-0001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1503. Definitions

A. As used in this Chapter, the following definitions apply:

A_1 —the maximum activity of special form radioactive material permitted in a Type A package.

A_2 —the maximum activity of radioactive material, other than special form, LSA, and SCO material, permitted in a Type A package. These values are either listed in LAC 33:XV.1517, or may be derived in accordance with the procedure prescribed in LAC 33:XV.1517

* * *

[See Prior Text]

Conveyance—for transport by public highway or rail, any transport vehicle or large freight container; for transport by water, any vessel, or any hold, compartment, or defined deck area of a vessel, including any transport vehicle on board the vessel; and for transport by aircraft, any aircraft.

Exclusive Use—the sole use by a single consignor of a conveyance and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

Fissile Material—plutonium-238, plutonium-239, plutonium-241, uranium-233, uranium-235, or any combination of these radionuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only are not included in this definition. Certain exclusions from fissile material controls are provided by the U.S. NRC in 10 CFR 71.53.

Low Specific Activity (LSA) Material—radioactive material with limited specific activity that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

a. LSA-I:

i. ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores;

ii. solid unirradiated natural uranium, depleted uranium, or natural thorium or their solid or liquid compounds or mixtures;

iii. radioactive material, other than fissile material, for which the A_2 value is unlimited; or

iv. mill tailings, contaminated earth, concrete, rubble, other debris, and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed 10^{-6} A_2/g .

b. LSA-II:

i. water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

ii. material in which the radioactive material is distributed throughout, and the average specific activity does not exceed 10^{-4} A_2/g for solids and gases, and 10^{-5} A_2/g for liquids.

c. LSA-III. Solids (e.g., consolidated wastes, activated materials) in which:

i. the radioactive material is distributed throughout a solid or a collection of solid objects or is essentially uniformly distributed in a solid compact binding agent (e. g., concrete, bitumen, ceramic, etc.);

ii. the radioactive material is essentially uniformly distributed throughout a solid or a collection of solid objects or is essentially uniformly distributed in a solid compact binding agent (e.g., concrete, bitumen, ceramic, etc.);

iii. the radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for seven days, would not exceed 0.1 A_2 ; and

iv. the average specific activity of the solid does not exceed 2×10^{-3} A_2/g .

Low Toxicity Alpha Emitters—natural uranium, depleted uranium, and natural thorium; uranium-235, uranium-238, thorium-232, thorium-228, or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

Maximum Normal Operating Pressure—the maximum gauge pressure that would develop in the containment system in a period of one year under the heat condition specified by the U.S. NRC regulations in 10 CFR 71.71(c)(1), in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

Natural Thorium—thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

* * *

[See Prior Text]

Package—the packaging together with its radioactive contents as presented for transport.

a. Fissile material package means a fissile material packaging together with its fissile material contents.

b. Type B package means a Type B packaging together with its radioactive contents. On approval, a Type B package design is designated by the NRC as B(U) unless the package has a maximum normal operating pressure of more than 700 kPa (100 lb/in²) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in U.S. NRC regulations 10 CFR 71.73, in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. There is no distinction made in how packages with these designations

may be used in domestic transportation. To determine their distinction for international transportation, see U.S. DOT regulations in 49 CFR part 173. A Type B package approved before September 6, 1983, was designated only as Type B. Limitations on its use are specified in LAC 33:XV.1509.

* * *

[See Prior Text]

Special Form Radioactive Material—radioactive material that satisfies the following conditions:

a. it is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

b. the piece or capsule has at least one dimension not less than 5 millimeters (0.197 inch); and

c. it satisfies the test requirements specified by the U.S. NRC in 10 CFR 71.75. A special form encapsulation designed in accordance with the NRC requirements in 10 CFR 71.4 in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, must meet requirements of this definition applicable at the time of its design or construction. Any other special form encapsulation must meet the specifications of this definition.

* * *

[See Prior Text]

Surface Contaminated Object (SCO)—a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCOs must be in one of two groups with surface activity not exceeding the following limits:

a. SCO-I. A solid object on which:

i. the non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 Bq/cm² (10⁻⁴ microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 0.4 Bq/cm² (10⁻⁵ microcurie/cm²) for all other alpha emitters;

ii. the fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4x10⁴Bq/cm² (1.0 microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 4x10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters; and

iii. the non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4x10⁴ Bq/cm² (1 microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 4x10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters.

b. SCO-II. A solid object on which the limits for SCO-I are exceeded and on which:

i. the non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 400 Bq/cm² (10⁻² microcurie/cm²) for beta and gamma and low toxicity alpha emitters or 40 Bq/cm² (10⁻³ microcurie/cm²) for all other alpha emitters;

ii. the fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 8x10⁵ Bq/cm² (20

microcuries/cm²) for beta and gamma and low toxicity alpha emitters or 8x10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters; and

iii. the non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 8x10⁵ Bq/cm² (20 microcuries/cm²) for beta and gamma and low toxicity alpha emitters, or 8x10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters.

Transport Index—the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined as follows:

a. for non-fissile material packages, the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter (3.3 ft)); or

b. for fissile material packages, the number determined by multiplying the maximum radiation level in mSv per hour at one meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 ft)), or for critical control purposes, the number obtained as described in the U.S. NRC regulations, whichever is larger.

Type A Quantity—a quantity of radioactive material, the aggregate radioactivity of which does not exceed A₁ for special form radioactive material or A₂ for normal form radioactive material, where A₁ and A₂ are given in LAC 33:XV.1517 or may be determined by procedures described in LAC 33:XV.1517.

Type B Quantity—a quantity of radioactive material greater than a Type A quantity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1508. General License: NRC Approved Packages

A. A general license is hereby issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the department.

B. This general license applies only to a licensee who:

1. has a quality assurance program approved by the department as satisfying the provisions of the U.S. NRC, 10 CFR 71, subpart H;

2. has a copy of the specific license, certificate of compliance, or other approval of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

3. complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Chapter; and

4. prior to the licensee's first use of the package, has registered with the U.S. NRC.

C. The general license in this Section applies only when the package approval authorizes use of the package under this general license.

D. For a Type B or fissile material package, the design of which was approved by the U. S. NRC before April 1, 1996, the general license is subject to additional restrictions of LAC 33:XV.1509.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1509. Previously Approved Type B Packages

A. A Type B package previously approved by the U. S. NRC, but not designated as B(U) or B(M) in the identification number of the NRC Certificate of Compliance, may be used under the general license of LAC 33:XV.1508 with the following additional limitations:

1. fabrication of the packaging was satisfactorily completed by August 31, 1986, as demonstrated by application of its model number in accordance with U.S. NRC regulations;

2. the package may not be used for a shipment to a location outside the United States, except under special arrangement approved by the U.S. DOT in accordance with 49 CFR 173.403; and

3. a serial number that uniquely identifies each packaging that conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

B. A Type B(U) package, a Type B(M) package, a LSA material package, or a fissile material package previously approved by the U.S. NRC, but without the designation -85 in the identification number of the U.S. NRC Certificate of Compliance, may be used under the general license of LAC 33:XV.1508 with the following additional conditions:

1. fabrication of the package was satisfactorily completed by April 1, 1999, as demonstrated by application of its model number in accordance with U.S. NRC regulations;

2. a package used for a shipment to a location outside the United States is subject to multilateral approval as defined in U.S. DOT regulations at 49 CFR 173.403; and

3. a serial number that uniquely identifies each packaging that conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1510. General License: U.S. DOT Specification

Container

A. A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in the regulations of the U.S. DOT at 49 CFR parts 173 and 178.

B. This general license applies only to a licensee who has a quality assurance program approved by the U.S. NRC as satisfying the provisions of 10 CFR part 71, subchapter H.

C. This general license applies only to a licensee who:
has a copy of the specification; and

2. complies with the terms and conditions of the specification and the applicable requirements of this Chapter.

D. The general license in Subsection A of this Section is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States, except by multilateral approval, as defined in U.S. DOT regulations at 49 CFR 173.403.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26

§1511. General License: Use of Foreign Approved Package

A. A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the U.S. DOT as meeting the applicable requirements of 49 CFR 171.12.

B. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the U. S. NRC as satisfying the applicable provisions of 10 CFR part 71, subpart H.

C. This general license applies only to shipments made to or from locations outside the United States.

D. This general license applies only to a licensee who:

1. has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment; and

2. complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this Chapter. With respect to the quality assurance provisions of 10 CFR part 71, subpart H, the licensee is exempt from design, construction, and fabrication considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1512. Routine Determinations

A. Before the first use of any packaging for the shipment of licensed material, the licensee shall:

1. ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;

2. where the maximum normal operating pressure will exceed 35 kPa (5 lbs/in²) gauge, test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure; and

3. conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number assigned by the U. S. NRC. Before applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U. S. NRC.

B. Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this Chapter and of the license. The licensee shall determine that:

1. the package is proper for the contents to be shipped;
2. the package is in unimpaired physical condition except for superficial defects such as marks or dents;
3. each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
4. any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
5. any pressure relief device is operable and set in accordance with written procedures;
6. the package has been loaded and closed in accordance with written procedures;
7. for fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
8. any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified by the U.S. NRC in 10 CFR 71.45;
9. the level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable and within the limits specified in U.S. DOT regulations at 49 CFR 173.443;
10. external radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified by the U. S. NRC in 10 CFR 71.47 at any time during transportation; and
11. accessible package surface temperatures shall not exceed the limits specified by the U. S. NRC in 10 CFR 71.43 at any time during transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1513. Air Transport of Plutonium

A. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Chapter or included indirectly by citation of U.S. DOT regulations, as may be applicable, the licensee shall assure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

1. the plutonium is contained in a medical device designed for individual human application;
2. the plutonium is contained in a material in which the specific activity is not greater than 0.002 microcuries/gram (74 Bq/g) of material and in which the radioactivity is essentially uniformly distributed;
3. the plutonium is shipped in a single package containing not more than an A₂ quantity of plutonium in any

isotope or form and is shipped in accordance with LAC 33:XV.1502; or

4. the plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the U.S. NRC.

B. Nothing in Subsection A of this Section is to be interpreted as removing or diminishing the requirements of U.S. NRC regulations in 10 CFR 73.24.

C. For a shipment of plutonium by air that is subject to Subsection A.4 of this Section, the licensee shall, through special arrangement with the carrier, require compliance with U.S. DOT regulations (49 CFR 175.704) applicable to the air transport of plutonium.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1514. Records

A. Each licensee shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under LAC 33:XV.1505, showing, where applicable:

1. identification of the packaging by model number and serial number;

* * *

[See Prior Text in A.2-6]

7. address to which the shipment was made;
8. results of the determinations required by LAC 33:XV.1512 and by the conditions of the package approval; and
9. in addition, for each item of irradiated fissile material:
 - a. identification by model number and serial number;
 - b. irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - c. any abnormal or unusual condition relevant to radiation safety.

B. The licensee shall make available to the department for inspection, upon reasonable notice, all records required by this Chapter. Records are only valid if stamped, initialed, or signed and dated by authorized personnel or otherwise authenticated.

C. The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by LAC 33:XV.1512, design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. The records must be retained for three years after the life of the packaging to which they apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1515. Reports

A. The licensee shall report to the department within 30 days:

1. any instance in which there is significant reduction in the effectiveness of any approved Type B or fissile packaging during use;

2. details of any defects with safety significance in Type B or fissile packaging after first use, with the means employed to repair the defects and prevent their recurrence; and

3. instances in which the conditions of approval in the Certificate of Compliance were not observed in making a shipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1516. Advance Notification of Transport of Nuclear Waste

* * *

[See Prior Text in A-B.2]

3. the quantity of licensed material in a single package exceeds the least of the following:

a. 3000 times the A₁ value of the radionuclides, as specified in LAC 33:XV.1517, for special form radioactive material;

b. 3000 times the A₂ value of the radionuclides, as specified in LAC 33:XV.1517, for normal form radioactive material; or

c. 1000 TBq (27,000 Ci).

* * *

[See Prior Text in C-C.6]

D. The notification required by LAC 33:XV.1516.A shall be made in writing to the office of each appropriate governor or governor's designee and to the department. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by messenger must reach the office of the governor, or governor's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three years.

E. The licensee shall notify each appropriate governor, or governor's designee, and the department of any changes to schedule information provided in accordance with Subsection A of this Section. Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for three years a record of the name of the individual contacted.

F. Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a

cancellation notice to the governor, or governor's designee, of each appropriate state and to the department. A copy of the notice shall be retained by the licensee for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1517. Incorporation by Reference

The department incorporates by reference 10 CFR part 71, appendix A (July 1, 1999).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

Appendix A. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on May 25, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by NE021*. Such comments must be received no later than May 25, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of NE021*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0004#044

NOTICE OF INTENT

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

Volatile Organic Compounds–Loading
(LAC 33:III.2107)(AQ203)

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 gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.2107 (Log #AQ203).

Test Methods 18, 25A, 25B, and flaring devices will be added as appropriate test methods for determining compliance with the control requirements for loading facilities for volatile organic compounds. This is part of the State Implementation Plan, which is federally enforceable, and EPA has requested these changes. The basis and rationale for this proposed rule are to implement changes requested by EPA.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

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

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

Subchapter A. General

§2107. Volatile Organic Compounds–Loading

* * *

[See Prior Text in A – E.1]

2. Test Method 18 (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003) for determining gaseous organic compounds emissions by gas chromatography;

3. Test Method 25 (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003) for determining total gaseous non-methane organic emissions as carbon;

4. Test Method 25A or 25B (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003) for determining total gaseous organic concentration using flame ionization or nondispersive infrared analysis; and

5. Flaring devices which shall be designed and operated according to 40 CFR 60.18.

* * *

[See Prior Text in F]

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 16:116 (February 1990), amended by the Office of Air Quality and

Radiation Protection, LR 17:360 (April 1991), LR 22:1212 (December 1996), LR 24:20 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on May 25, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ203. Such comments must be received no later than June 1, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ203.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Volatile Organic Compounds –Loading**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs to state or local governmental units for this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections on state or local governmental units as a result of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to persons or non-governmental groups as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal will have no effect on competition or employment.

James H. Brent, Ph.D.
Assistant Secretary
0004#022

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Revocation of Bonus Payments (LAC 4:VII.913 and 915)

The Louisiana Department of Veterans Affairs advertises its intent to delete in its entirety LAC 4:VII.913 and 915, pertaining to the Desert Shield/Desert Storm Bonus Payments and World War II Merchant Marine Bonus Payments. This proposed action is being taken because both bonus programs have expired.

Title 4

ADMINISTRATION

Part VII. Governors Office

Chapter 9. Veterans Affairs

Subchapter A. Veterans Affairs Commission

§913. Desert Shield/Desert Storm Bonus Payments

Repealed

§915. World War II Merchant Marine Bonus

Payments

Repealed

Interested persons are invited to submit inquiries or written comments on the proposed action by 4:30 p.m., May 31, 2000, to David C. Perkins, Deputy Assistant Secretary, Box 94095, Capitol Station, Baton Rouge, LA 70804-9095, or to 1885 Wooddale Blvd., Tenth Floor, Baton Rouge, LA 70806.

David C. Perkins
Deputy Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Revocation of Bonus Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs to state or local governmental units if rules are repealed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units if rules are repealed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups if rules are repealed. The economic benefits to directly affected persons have already been received in the form of cash payments during application period for each bonus.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment if rules are repealed.

David C. Perkins
Deputy Assistant
Secretary
0004#069

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Women's Services**

Family Violence Program
(LAC 4:Chapter 17)

Editor's Note: The text of this Notice of Intent has been codified. Section numbers will be assigned at a later date.

In accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950 et seq., the Governor's Office of Women's Services proposes to repeal LAC 4:VII.1731-1735 Minimum Standards for Family Violence Programs, and adopt new regulations entitled Governor's Office of Women's Services Quality Assurance Standards for Family Violence Programs.

The Standards apply to all organizations community-based nonprofits that provide services for survivors of family violence and receive funds through the Governor's Office of Women's Services.

Title 4

ADMINISTRATION

Part II. Governor's Office

Chapter 17. Women's Services

Subchapter B. Family Violence Program Minimum Standards

Section One: Policy and Governance

A. Basic Considerations. These standards emphasize the role of the governing body in setting policy, identifying need, developing a strategy to address needs and evaluating the effectiveness and efficiency of the organization. The role of the governing body and the executive director are clearly differentiated; staff do not govern and the governing body does not administer the day-to-day activities. The governing body establishes policies and the staff, at the direction of the executive director, implements programs reflecting those policies. A clear governance structure is in place.

B. Standards

1. The purpose of the program is clearly stated and compatible with the philosophy of the OWS/LCADV.

2. The program functions in accordance with its stated purpose.

3. The program has a designated governing authority.

4. The governing authority is accountable for the program. It ensures the program's compliance with the Charter and with relevant federal, state and local laws and regulations.

5. Members of the governing authority and any advisory body to the governing authority are chosen in a manner that assures a broad base of knowledge and participation in the governance of the program. There is a rotation mechanism to ensure a balance of new members and seasoned members.

6. The governing authority and any advisory body operate in accordance with acceptable practice.

a. The governing authority designates a person to act as Executive Director and delegates sufficient authority to this person to manage the program. An annual performance evaluation is conducted by the governing authority.

7. The governing authority establishes policies for the efficient and effective operation of the program.

8. The program takes a leadership role in identifying and addressing needs of family violence survivors and their children.

9. The program sets goals and objectives for its management; service delivery; and systems change functions, developing plans to achieve them.

10. The program evaluates the effectiveness and efficiency of its management, service delivery and systems change functions.

11. The program has documentation of its authority to operate under State law. There will be either a charter, partnership agreement, constitution, articles of association, or by-laws.

12. The program has documents identifying the governing body's addresses; their terms of membership; officers; and officers' terms.

13. The program has written minutes of formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

14. The program informs designated representatives of the Office of Women's Services prior to initiating any substantial changes in the program, services or physical plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Two: Contract Requirements

A. Basic Considerations. These standards emphasize legal and contractual issues which the program is required to meet and are identified in the contract. These standards are not inclusive of all the requirements under the contract. It should be noted that the contract contains an over-arching provision which specifies that compliance with the OWS quality assurance standards is required.

B. Standards

1. The program is legally authorized to contract.

2. The program provides services required in the contract. These services include but are not limited to emergency shelter or referrals, 24-hour hot line; crisis, advocacy, support and group counseling; and support services.

3. The program services comply with the OWS program philosophy.

4. The program does not accept reimbursement from clients unless their grant specifically authorizes them to do so.

5. The program submits accurate and timely reports and budget revisions in the required manner.

6. The program retains books, records or other documents relevant to their contract for five years after final payment.

7. The program obtains an annual audit within six months of ending of fiscal year and submits same to OWS.

8. The program agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974; Title IX of the Education Amendments of 1972; the Age Act of 1972;

and the contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

9. The program acknowledges OWS as a funding agent on its program stationery, written material and when providing information about the program.

10. The program informs applicants or recipients of service of their right to a fair hearing in the event of denial, reduction, or termination of a service or the program's failure to act upon a request for service within a reasonable period of time.

11. The program restricts the use or disclosure of information concerning services, applicants or recipients obtained in connection with the performance of the contract to purposes which provide a benefit to survivors. The survivor is informed of any request for information and signs a voluntary consent before the information is made available.

12. The program does not use funds as direct payment to survivors or dependents.

13. The program imposes no income eligibility standards on individuals receiving assistance.

14. The program has procedures in place to insure confidentiality of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Three: Social Change

A. Basic Considerations. These standards address the program's education and advocacy efforts to ensure that survivors, their children, and those at risk of family violence, are protected and treated compassionately. The overall goal is to create an effective response system in the community and to change cultural attitudes and institutional practices that perpetuate violence. It is important to remember, however, that standards can only address the issues for which the organization can be accountable. The program cannot be held accountable for whether a social change occurs. The program can be held accountable for their efforts to educate and advocate in the hope that change will result.

B. Standards

1. The program identifies those systems and organizations throughout its service area which affect the prevention and treatment of family violence.

2. The program evaluates the practices of those systems and organizations to determine which are harmful or ineffective.

3. The program prioritizes the community systems, organizations and institutions which need to be impacted first and develops a plan which defines strategies to change harmful or ineffective practices, reinforce helpful practices, and intervene where there are no established practices or policies. The plan is adopted by the board on an annual basis and is updated as necessary. The plan could be developed in collaboration with a local coordinating council or task force.

4. The program conducts public education sessions targeted to personnel employed by community systems organizations.

5. The program works collaboratively with those community systems used by family violence survivors which may include establishing safe and independent lives. The goal is to change institutional practices that place survivors at risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Four: Foundational

A. Basic Considerations. These standards address the issues and concerns which apply across all areas of the organization and program implementation. They provide basic guidelines to assure the highest ethical standards with regard to behaviors of staff, volunteers (including Boards of Directors and Advisory Boards), and the guarantee of confidentiality. These standards ensure that informed and skillful assistance is provided to family violence survivors in an empowering, non-victim blaming way, determining the extent of danger and proper ways to prepare for future safety.

B. Standards

1. Ethics

a. Family violence programs abide by an accepted code of ethics that ensures excellence in service delivery and professionalism among family violence advocates when working with survivors and representing the program.

b. Programs are equal opportunity employers. No person is discriminated against seeking employment, or while employed, on the basis of age, sex, race, color, disability, national origin, religion, veteran status, marital status, sexual orientation, abuse status (i.e. battered or formerly battered), or parenthood.

c. Program employees do not discriminate in the provision of services or use of volunteers on the basis of any status described above. No program discriminates or retaliates against any employee who exercises her/his rights under any Federal or State anti-discrimination law.

2. Confidentiality

a. Confidentiality of Facilities

i. When it is the policy of a family violence program to keep the location of their shelter or other facilities confidential, the program employees and volunteers are prohibited from disclosing information regarding the location of those facilities except in the following specific cases:

(a). to medical, fire, police personnel or agencies, when their presence is necessary to preserve the health and safety of survivors, employees, or volunteers at the facility;

(b). to vendors and others with whom programs have business relationships on a need-to-know basis. The executive director or designee ensures that written agreements are executed by representatives of such businesses pledging to keep the location of the facility confidential;

(c). to any other person when necessary to maintain the safety and health standards in the facility. The executive director or designee may disclose the location of the confidential facility for the purpose of official fire inspections, health department inspections, and other inspections and maintenance activities necessary to assure safe operation of the facility;

(d). to supportive individuals of a shelter resident who have been approved as a part of case management, who have been prescreened by staff, and who have signed an agreement to keep the address and location of the facility confidential. Staff ensures that the individual's presence at

the facility does not violate the confidentiality of other shelter residents at the facility;

(e). confidential, written records of services provided by staff members, and/or volunteers are maintained. These records indicate the types of services provided; the individual or family to whom services were provided, the dates of service provision, the content and outcome of the interaction(s); the staff and/or volunteer providing the service(s); and provisions for future or on-going services.

b. Confidentiality of Survivor Information

i. Information received by family violence programs about survivors is confidential. Records on survivors are kept in locked files to assure confidentiality. Employees and volunteers are prohibited from disclosing survivor information except in very limited circumstances. Employees and volunteers are prohibited from releasing information about survivors to other employees and volunteers of the same family violence program except in the event of a specific need-to-know. A staff member or volunteer is considered to have a need to know when their work relates directly to the survivor for whom information is available.

ii. Confidential information may be released after a survivor signs a statement authorizing the release. The survivor should be informed about:

(a). to whom the information will be released (name of person or agency);

(b). a date by which the information will be forwarded to the person or entity to whom it will be released;

(c). the purpose for which this information is being released to this person or entity,

(d). the specific information that will be released; and

(e). the right to withdraw permission at any time.

iii. Staff and volunteers report information about any suspected abuse or neglect of a child or dependent adult according to the Louisiana Child & Adult Protection statutes.

(a). Regardless of a person's status as a family violence survivor, staff and volunteers are required to report suspected abuse of a child or dependent adult.

(b). After the filing of a program initiated abuse report, family violence staff must cooperate with the Child or Adult Protective Services regarding the investigation of the abuse report. This includes assisting the protective services staff in gaining access to the survivor and child(ren) in a manner that maintains the confidentiality of the non-reported survivor receiving services from the family violence program. This, however, does not compel the following:

(i). violating the confidentiality of survivor/children who are not named in the abuse report as a victim or perpetrator of the abuse reported;

(ii). releasing information not directly relevant to the reported abuse.

c. Medical Emergency

i. Program staff and volunteers can release confidential information about a survivor during a medical emergency.

(a). Released information is relevant to the preservation of the health of an adult survivor or such a

survivor's minor child in the event the survivor is not able to authorize the release or the survivor cannot be found in a timely manner.

(b). Released information is limited to the medical emergency.

(c). Released information is limited to the medical personnel or institution treating the adult survivor or minor child.

d. Fire Emergency

i. Where a fire exists, information that would otherwise be confidential may be disclosed to fire fighting personnel if such disclosure is necessary to preserve the health and safety of survivors, employees, or volunteers of the family violence program.

(a). Released information is limited to the fire emergency.

(b). Released information is limited to emergency fire and safety personnel treating the adult survivor or minor child.

e. Threats of Harm

i. Any form of firearm or weapon in the facility is prohibited even when locked in a locker at the facility. Program staff will include in their assessment for services appropriate questions to identify those survivors who possess firearms or other weapons and assist them in making arrangements for someone else to keep them while they are receiving services.

ii. Should a survivor pose a risk of harm to self or others, this information can be reported to an appropriate agency/individual. Program personnel will competently assess whether this disclosure is appropriate and necessary. Disclosure of this otherwise confidential information can be made to:

(a). licensed medical or mental health personnel or facilities, law enforcement personnel;

(b). identified, intended victim(s);

(c). the parent(s) of minor children making the threat.

Information released must be limited to that which is directly pertinent to the threatening situation.

f. Violence, Threatened Violence, or Other Crime by Survivor

i. In the event a survivor engages in or threatens to commit a violent act or other crime on the premises of a family violence program facility, such may be reported to law enforcement personnel. Program personnel will competently assess the circumstances and will disclose information only if deemed appropriate and necessary. Released information must be pertinent to the threatening situation.

g. Search and Arrest Warrants Meeting Specific Criteria

i. Family violence program employees and volunteers release otherwise confidential information in specific circumstances:

(a). when law enforcement personnel present a criminal arrest warrant which names the individual and alleges that the individual is located at the program, or its street address;

(b). when law enforcement present a search warrant that specifies the individual or the object of the search and alleges that the individual or object of the search is located at the program, or its street address.

h. Subpoenas

i. The executive director or designee of each family violence program is the only person authorized to respond to subpoenas for the program, employee, former employee, or volunteer. Should a process server present him/herself at the family violence program, he/she is directed to the administrative offices where the executive director or designee may be found. Identity of the shelter location cannot be confirmed to the process server.

ii. Regardless of what type of subpoena and regardless of whether the subpoena is for an appearance for a deposition or for an appearance at court, the executive director or her designee should advise whoever issued the subpoena of the provisions of the La. R.S. 46:2124.1 which is the privileged communications and records statute for family violence programs.

iii. If a survivor who is residing in the shelter has not given written permission for the program staff or volunteers to acknowledge that she is in fact a resident of that shelter, the person shall advise the process server that the identity of shelter residents is confidential but that in an effort to be of assistance that they:

(a). obtain the name of the person to whom the document is directed;

(b). document the type of subpoena being served, i.e., subpoena for deposition, subpoena duces tecum, subpoena to appear at a court hearing, etc;

(c). obtain the name and telephone number of person requesting the subpoena (attorney, judge);

(d). obtain the date, time, and where to appear;

(e). obtain the name and telephone number of process server; and

(f). refer above information to the survivor (if known) or to the executive director or her designee or other appropriate person as dictated by policy of program.

i. Civil Child Custody Orders, Custody Papers, "Child Pick-up" Orders, Service of Process and Other Law Enforcement Documents.

i. These documents do not in and of themselves present grounds for violation of survivor confidentiality. As described above, any such order or document must be accompanied by a criminal arrest warrant or a search warrant designating the program as the location to be searched and a description of who or what the search is authorized to produce. The executive director or designee is the only person authorized to respond to civil child custody orders, custody papers, "child pick-up" orders, service of process and other law enforcement documents.

j. Involuntary Commitment Orders

i. The statutorily protected privilege of confidentiality belongs to survivors, who have a right to know if legal documents have been issued that are addressed to or about them. Staff does not reveal that a survivor is in shelter or otherwise receiving program services. In the event of the attempted enforcement of a civil involuntary commitment order, staff, while maintaining privilege, makes every attempt to identify the name of the person trying to serve the order and any other relevant information. Staff then notifies the named survivor(s), when possible, of the order and the additional information.

k. Confidentiality Regarding Deceased Persons.

i. Family violence programs maintain confidentiality of records after the person is deceased. Records of the deceased person belong to the family violence program and programs are under no legal obligation to release them. Further, programs have no legal authority to release records unless ordered by a judge or if the deceased person has signed a release prior to her death. If, however, breaching confidentiality would assist in the prosecution of the perpetrator of violence, the executive director or a designee shall seek the counsel of an attorney prior to releasing information.

1. Confidentiality of Minors.

i. Except for the reporting of suspected child abuse and neglect or when a child is assessed to be of danger to her/himself or others, program staff is under no legal obligation to violate the confidence of a child.

m. Religious Activities.

i. Organized religious activities by an outside group or individual or staff within a shelter or non residential domestic violence program are prohibited. Survivor-directed initiatives for religious activities shall not be prohibited but must not take place in common, community shelter or program areas. However, staff who work directly with survivors are encouraged to be aware of the survivor as a whole person. Such staff will include the survivor's spiritual as well as physical, mental and emotional well being as a necessary part of their work with the survivor.

Survivors are not prohibited from considering their rabbi, priest, pastor, shaman, or any other member of an organized religion, as an ally who may visit the survivor under the same guidelines as any other ally.

3. Safety Planning

a. Family violence programs provide 24 hour per day staff to assist survivors of family violence with determining levels of danger/lethality and assist them to develop a personalized plan for safety.

b. Safety planning includes a danger/lethality assessment to determine the survivor's immediate level of danger, completed by trained advocates and documented in case notes or on a standardized form developed for the purpose of danger assessment.

c. Interim assessments are made during the shelter stay or nonresidential service.

d. Assessments screen for stalking and contain planning alternatives for stalking.

e. Safety planning meets the needs of the caller, i.e. a survivor wanting to leave, a survivor intending to stay, survivor with children and pets.

f. Safety planning is a continued process during a shelter stay or advocacy participation, especially at periods of increased risks, i.e. filing of court documents, court hearings, or any strategic move by the survivor or perpetrator.

g. Safety plans are survivor-directed, and staff facilitated/guided.

h. Safety plans are produced in a manner that allows for customization for individuals' specialized needs.

i. Safety planning contains emergency response protocols for use during in-progress emergency and in anticipation of an impending emergency. Minimum steps to assist survivors in determining existing options are provided to plan for the following:

i. getting help or getting away;

- ii. accessing transportation;
- iii. accessing a linkage to outside helpers;
- iv. protocols for the safety of children and pets;
- v. securing belongings;
- vi. determining a safe, alternative escape location;
- vii. getting assistance from the family violence program.

j. Documentation of Safety Planning includes but is not limited to:

i. a logged note indicating that safety planning was offered during hotline calls;

ii. case notes or a standardized form indicating safety planning was offered during initial residential and outreach intake services;

iii. case notes or a standardized form indicating safety planning was offered on a regular basis and especially during changes in a survivor's plans or in event of a significant occurrence affecting the survivor, survivor's children or the batterer. Examples: the survivor's court appearances, resumption of or beginning new job, an order for visitation of children by the batterer, a batterer being served stay away orders or being released from jail after an arrest involving the survivor and/or children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Five: Program Administration and Service Delivery

A. Basic Considerations. These standards encompass the overall practices and procedures that the program needs to ensure that survivors receive the services they are eligible for, interested in and in need of. Also, that those services are delivered in a manner which is survivor centered, non-judgmental, culturally sensitive and protects the dignity and right to self determination of the survivor. These standards include procedures for documentation of services, incident reporting, and grievance procedures addressing the relationship between philosophy and practice.

B. Standards.

1. General Administration

a. The executive director exercises full responsibility for the day-to day management of the organization.

b. Staff is responsible for implementing policies.

c. The program maintains an internal structure for efficient and effective administration.

d. The service delivery plan fulfills the program's mission.

e. Services are survivor centered, non-judgmental, culturally sensitive and strive to empower persons served.

f. The organization measures the efficiency and effectiveness of its management function.

g. Programs are conducted in accord with applicable professional, ethical and legal principles.

h. Service statistics are maintained and used in accord with acceptable practices.

i. The program identifies the area and population it serves in its brochures and reports.

j. The program recognizes and respects the autonomy, dignity and rights of program participants.

k. Relevant goals, objectives and plans are established for service delivery management.

l. The program seeks to serve persons who need its services and works to eliminate barriers to the provision of quality service to those who seek service.

m. The program provides access to crisis information and shelter 24 hours a day.

n. The program conducts intake services in accordance with acceptable practices.

o. The program conducts orientation for persons to be served. Persons is defined to include adults and children.

p. The program has a system for case management. It regularly plans, monitors and assesses the progress of each person served.

q. The program designs communal living policies which stress non-violence, are fair and survivor centered. Policy enforcement balances the rights of survivors with the need to ensure safety for survivors who choose not to follow policy.

r. The program works collaboratively with other family violence programs throughout the State and in other States as appropriate to meet the safety and security needs of survivors.

2. Assessing for Appropriate Services.

a. Within initial contacts with survivors, staff assesses for the following:

i. eligibility for support and intervention services;

ii. immediate safety;

iii. batterer's potential for lethality;

iv. closely analyze batterer dynamics in same sex relationships to assure the person requesting services is the survivor, rather than the perpetrator;

v. special delivery needs based on a disability;

vi. special needs based on the requirements of a person's self-identified religious, cultural, ethnic, geographic or other affiliation(s);

vii. other appropriate services.

3. Appointments and Availability of Services

a. Intervention staff, whether shelter or nonresidential, is provided during times when most survivors need to access and receive services.

b. Survivors are informed of the process by which they may gain access, informally and by appointment, to advocates within the program in which they are receiving services.

c. At the time appointments are made, staff assists individual survivors in developing a safety plan, as necessary, for traveling to and from appointments.

4. Grievance Policy and Procedures

a. The program develops, and exercises the use of, when appropriate, a written grievance policy to be given to every survivor upon admission to services. The procedures shall include, but not be limited to:

i. procedures to follow in the event a survivor believes they have been denied services;

ii. procedures to follow in the event a survivor is dissatisfied with the quality of services;

iii. procedures to follow in the event a survivor is dissatisfied with behaviors of a staff person.

5. Incident Reports

a. The organization provides a written policy to assure serious incidents are properly reconciled. Individual reports will be written for any injuries, accidents, unusual events or circumstances involving staff, volunteers, visitors,

vendors, or survivors. Staff are informed regarding what would constitute each. Provisions are made for evaluation of severity of the incident and any follow-up actions needed.

6. Community Relations

a. The program is readily identifiable and visible among its potential users, peer organizations and appropriate publics. Public relations and public education materials are available in other languages for any ethnic group with a presence in the community and the geographic area served and for special needs populations.

b. Policies for community relations and fund development are comprehensive and practical.

c. Relevant goals objectives and plans are established for community relations and fund development

d. Community relations and fund development are conducted in accordance with applicable professional and ethical and legal principles.

e. The program uses designated personnel to implement its policies and procedures for community relations and financial development.

f. The program follows acceptable practices for public disclosure.

g. The program has accurate statistical data relevant to its services readily available.

h. The program conducts a public education program that raises the community's awareness of the causes, implications and the appropriate community response to family violence.

i. The program conducts a public relations program that projects an accurate positive image throughout its service area and raises the community's understanding of and support for its services.

j. The public education and public relations efforts reflect the program's philosophy and that philosophy is consistent with that of the OWS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Six: Facility, Safety, Security and Health

A. Basic Considerations. These standards encompass the overall practices and procedures that the program employs to ensure that the facility and grounds that the program rents or owns are appropriately accessible, functional, attractive, safe and secure for the persons served, visitors, employees and volunteers. They ensure that the program meets legal requirements regarding access, safety and health as well as acceptable standards of cleanliness and functionality.

B. Standards

1. All facilities meet ADA standards.

2. Policies for the management of facilities are comprehensive and practical.

3. The program adheres to all applicable zoning, building, fire, health and safety codes and laws of the State and of the community in which the organization is located. Programs are annually monitored by the Office of Public Health and the State Fire Marshall.

4. Relevant goals, objectives and plans are established for building and grounds, safety and health.

5. The program uses designated personnel to implement its policies and procedures relative to facility, safety and health.

6. Comprehensive evaluations are conducted on a regular basis to measure the efficiency and effectiveness of the operations and maintenance of buildings and grounds, safety and health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Seven: Financial Management and Fund Development

A. Basic Considerations. These standards stress that Generally Accepted Accounting Practices (GAAP) with regular internal and external reports and audits, are the foundation for prudent management of capital, endowment and operating income and expenses. It is the role of the governing body to ensure financial accountability and that the bulk of the program's resources are used to meet service needs.

B. Standards

1. Policies for financial management are comprehensive and practical.

2. Relevant goals, objectives and plans are established for financial management and long term financial stability.

3. Financial management is conducted in accordance with applicable professional, ethical and legal principles. Generally accepted accounting procedures and practices are implemented as required by the terms of the contract.

4. The program uses or contracts with designated and appropriately qualified personnel to implement its policies and procedures for financial management.

5. The program provides bonding of staff responsible for financial resources. It is recommended that the program provide and maintain adequate liability coverage for the governing body.

6. The program prepares financial statements that clearly and fairly present the organization's financial position.

7. The governing body adopts and the executive director implements comprehensive budgets in accordance with acceptable practices.

8. The governing body continuously reviews and analyzes its financial position.

9. The governing body adopts and regularly reviews salary range schedules and adheres to minimum wage laws.

10. The program prudently manages its operating, endowment and capital funds.

11. The program has sufficient cash flow to meet its operating needs

12. The program maintains adequate cash reserves.

13. The program does not enter into any agreement, written or otherwise, where public funds are paid, or committed to be paid, for services or goods, to any member of the governing body, staff, or members of the immediate family of said governing body or staff, or to any entity in which the foregoing have any direct or indirect financial interest, or in which any of the foregoing serve as an officer or employee, unless the services or goods are provided at a competitive cost or under terms favorable to the program. The program maintains written disclosures of any and all financial transactions in which a member of the governing body, staff, or their immediate family is involved.

C. Fund Development

1. The program has a long and short range fund development plan.

2. The program conducts a fund development program which secures sufficient funds to cover its operating and capital needs.

3. The program builds and maintains adequate financial reserves.

4. The governing body initiates and actively supports fund development efforts.

5. The program comprehensively evaluates community relations and fund development programs to measure efficiency and effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Eight: Staff and Volunteer Management

A. Basic Considerations. These standards encourage strong professional values. They assume that written policies and consistent practice are the cornerstone of a quality human resource system.

B. Standards

1. Policies for the management of staff and volunteers are comprehensive and practical.

2. Relevant goals, objectives and plans are established for staff and volunteer administration.

3. The administration of staff and volunteers is in accordance with applicable professional, ethical and legal principles.

4. The program employs sufficient staff and delegates sufficient authority to ensure the responsibilities the program undertakes are adequately carried out.

5. Comprehensive performance evaluations are conducted to measure the efficiency and effectiveness of staff and volunteer administration.

6. The program promulgates personnel policies that attract and retain qualified personnel.

7. A comprehensive manual containing all personnel policies is maintained, kept current, and made available to all staff.

8. The personnel policies provide for hours, leave and benefits that are designed to attract and retain qualified staff.

9. The program establishes written qualifications for all positions and employs persons who meet or exceed those qualifications.

10. Acceptable practices are followed for recruiting, hiring and assigning staff. Responsibility for hiring is clearly defined.

11. A written employee grievance policy is provided.

12. Acceptable screening practices which serve to protect the program and its clientele are clearly defined and followed. Employers, staff, or others responsible for the actions of one or more persons who have been given or have applied to be considered for a position of supervisory or disciplinary authority over children, with the permission of said person, will have a criminal history records check conducted. (R.S. 15:587.1)

13. The program recruits a diverse staff which is reflective of the community and geographic area in which the program is located.

14. Acceptable practices are followed for orientation, development and training of staff. Training content is compatible with OWS and LCADV's statement of

philosophy. Forty hours of family-violence related training is required for staff. Sixteen hours of orientation for new staff is required plus 20 hours of training in the first year. Experienced staff accompany new employees at all times and they are not given sole responsibility for working with survivors until orientation is complete.

15. Acceptable practices are followed in supervising and evaluating staff. Clear times of supervision and reporting are established.

16. Acceptable practices are followed in terminating employment of staff. Responsibility for terminating employment is clearly defined

17. A job classification system and salary ranges are maintained to attract and retain qualified personnel.

18. Comprehensive and current job descriptions are available for all staff positions.

19. A comprehensive confidential personnel record is maintained for each staff member.

20. Staff providing direct services are provided opportunities for debriefing to prevent burnout in an ongoing forum, such as weekly staffing, maintenance or supervision meetings.

21. The program determines the need for volunteer services and utilizes the services of volunteers as appropriate.

22. The program adopts policies that attract and retain qualified volunteers.

23. A comprehensive volunteer manual containing all volunteer policies and practices is maintained, kept current and made available to volunteers. This manual includes policies and procedures regarding recruitment, screening, training, supervision and/or dismissal of volunteers used to provide both direct and non-direct services. The manual clarifies the roles and contributions of volunteers to the program's provision of service, with specific detail addressing how, when, where and the frequency with which volunteers will be used.

24. Comprehensive and current job descriptions are available for volunteer positions.

25. A comprehensive, confidential personnel record is maintained for each volunteer which includes, but is not limited to a signed confidentiality statement and a record of trainings completed by the volunteer.

26. The volunteer policies provide for hours, benefits and recognition that are designed to attract and retain qualified volunteers.

27. Acceptable practices are followed in recruiting, screening and assigning volunteers. Screening practices serve to protect the program and its clients.

28. Acceptable practices are followed in the orientation and training of volunteers. The organization must provide volunteers with 20 hours of training. Training content is compatible with OWS and LCADV's statements of philosophy.

29. Acceptable practices are followed in the supervision, evaluation and termination of the participation of volunteers.

30. Volunteers are qualified for their responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Nine: Eligibility

A. Basic Considerations. These standards assure equal provision of services to family violence survivors and their dependents.

B. Standards

1. Persons eligible for the services of family violence programs include, but are not limited to family violence survivors, their legal dependents, and those that are or have been in danger of being emotionally, physically or sexually abused and meet the following criteria:

a. Adults, legally emancipated minors, or minors granted permission for services by a parent, guardian, judge's order or caretakers of eligible persons.

b. In the event of non-emancipated minors seeking services for themselves, programs shall acquire parental permission prior to providing applicable services.

c. Those eligible under the above definition who are/have been abused, or who believe they are in imminent danger of being abused, by their current or former intimate partner.

d. Those eligible above who have no safe place to go.

e. Those eligible above who willingly agree to abide by program guidelines.

f. Those with the ability to take primary care of themselves and their dependents within a communal living facility.

2. Programs provide services regardless of race, religion, color, national origin, gender, age (within above guidelines), mental or physical disability, sexual orientation, citizenship, immigration status, marital status or language spoken.

3. Programs provide services to male survivors who are eligible through collaboration with other organizations.

4. No minor dependent males or females with their parent or guardian are denied access to services on site. Survivors and their dependents may become ineligible if there is evidence that supports a history of violence and the refusal to follow safety guidelines either for themselves or others to cause the environment to become unsafe. Programs may apply to OWS for exemptions because of facility restrictions. Limited exemptions may be given on a case by case basis on presentation of a workable plan.

C. Special Needs and Circumstances

1. Alcohol or drug abuse and addictions: Family violence programs do not withhold services to persons using alcohol or drugs, off the program property, solely based upon the use of the alcohol or substance. Programs provide a written policy demonstrating how repetitive substance/alcohol use, or the demonstration of behaviors incongruent with community living, may affect continued stay in a facility or the limitations of other services available.

2. In cases where survivors require assisted living, eligibility is not withheld, but services made available through coordinated efforts between family violence program staff and other identified service providers.

D. Length of Stay (Emergency Shelter/Safe Home)

1. Programs offer safe shelter for a minimum of six weeks. Survivors are informed of the minimum length of stay and any criteria which may impact or shorten this stay.

2. Extensions of length of stay are contingent upon the survivor's progress toward meeting self-identified goals.

3. Reasons for denial of extensions requested by a survivor are documented in the case file and shared with the survivor in sufficient time for her to make other safe arrangements if necessary.

E. Repetitive Admissions

1. No program shall place a limit on the number of admissions to shelter without the presence of at least one of the ineligibility criteria.

F. Ineligibility

1. In some instances, applicants and current survivors may be denied services. Programs inform survivors seeking residential services of these instances as soon as possible in order for them to make a more enlightened decision about choosing to come to shelter, instead of waiting until intake when they have already risked leaving their abuser.

G. Criteria

1. The extent to which these criteria affect the long-term or future eligibility for services must be evaluated and documented on a case-by-case basis.

a. Not an adult or emancipated minor, or granted permission.

b. Active suicidal or homicidal behaviors.

c. Previously been disqualified from services.

2. In the event the program cannot admit new survivors due to capacity, every effort is made to secure and facilitate admission to safe alternate accommodations. This placement may include, but not be limited to hotel/motels, safe homes, LCADV/OWS sister shelters, homeless shelters, or other facilities which can be safely and confidentially provided.

3. If, prior to admission, a person is determined ineligible for shelter services, information and referrals are made for other appropriate services.

4. If, after admission, a person is determined to be ineligible for services, program staff:

a. Refers the person(s) to appropriate services elsewhere.

b. Assists the person(s) with accessing transportation, if possible, to receive the services.

5. Programs maintain written protocols outlining the location(s) and methods by which shelter, advocacy/counseling, and other services are delivered to eligible adult and minor male survivors needing services.

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Section Ten: Residential Services

A. Basic Considerations. These standards assure family violence programs provide appropriate and quality services to survivors of family violence and their children in an empowering, non-blaming way.

B. Standards

1. general

a. Family violence shelters provide access, admittance and residence in temporary shelter for survivors

of family violence and their children 24 hours a day, every day of the year.

b. Shift coverage provides on-site staff coverage 24 hours a day, 7 days a week when a survivor is in residence at the shelter and/or when the Hotline is answered at the shelter facility.

c. Regardless of the shift requirements, the first priority of the staff is to be responsive and accessible to a resident or hotline caller.

d. A family violence program provides a back up system for use during emergencies. A supervisor or designee is available "on call" by way of pager or in some manner of contact that allows for immediate response. Each program establishes a protocol that defines criteria and steps for using the back-up system.

e. Family violence programs provide a record of individual and group supervision for shelter employees. Supervision is implemented no less than monthly for part-time employees (20 or less in a week) and biweekly for full time employees. Documentation of supervision for volunteers is recorded and implemented as if they were part time employees.

f. Documentation of staff/volunteer supervision reflects the fact that the supervision took place and a listing of general subject(s) covered in the session is in the personnel or volunteer's file. In the event of problems related to staff performance, documentation is performed according to the program's personnel policies.

g. Procedures for adequate staff communication to provide continuity of service for survivors, including a regular review of any problem areas to resolve, will be developed and implemented.

2. Shelter Services

a. Every survivor is provided:

i. emergency shelter which is structurally safe and accommodates the particular security concerns of family violence survivors. The method of providing this security needs to be documented and this knowledge made available to survivors;

ii. confidentially of stay at shelter. This is documented in a form and signed by the survivor during intake;

iii. emergency food, clothing, and hygiene items free of charge to adult survivors and their children. When medical services are needed the program helps survivors access services.

b. Advocacy/intervention services, including safety planning for the shelter stay and travel outside the shelter, are available and offered 24 hours a day, every day of the year, with trained advocates on site to provide face-to-face emergency services.

c. Family violence shelters ensure that staff members:

i. have immediate face-to-face contact with a new survivor admitted to shelter to help determine emergency needs, orient them to the shelter facility and procedures;

ii. conduct a formal face-to-face intake process with a new survivor upon admission to shelter and answer any questions the survivor may have. During this time the staff gives the survivor a copy of shelter guidelines and education material on family violence, being very sensitive

to the survivor's ability to read and understand. The staff person doing the intake is trained on discipline guidelines for children in the shelter and how to assist the mother on following these guidelines through appropriate discipline techniques;

iii. sign a written agreement with each survivor about services to be provided by the shelter, which include but are not limited to:

- (a). program services, its staff and volunteers;
- (b). confidentiality agreements, including

records;

- (c). house guidelines, rights and privacy matters;

d. House guidelines are written in positive and respectful language, including those guidelines posted throughout the House. The purposes of the guideline is for protection, safety or health. Guidelines are limited to the most crucial of situations and reflect the intent to show that the shelter facility is the survivor's home. (OWS with the assistance of LCADV will review program guidelines and offer suggestions.) House guidelines include only those items under the following three categories:

i. Safety: Around confidentiality issues (confidentiality of staff and survivors and program locations, etc.); around security issues (possession of weapons, locked doors, etc.); and around physical safety (threats or acts of violence including discipline of children, etc.)

ii. Group Living: Programs encourage cooperation between survivors in communal living; programs make every reasonable effort to keep a survivor eligible for services regardless of her ability or willingness to participate in daily upkeep of the shelter facility and to adhere to the health and safety guidelines.

iii. Respect for self and others: Demerit and warning systems are not used.

iv. Survivors constitutional right to privacy in their person, property, communications, papers and effects is respected at all times by programs. Survivors are not under any circumstances subjected to unwarranted or unreasonable searches conducted by shelter staff of the survivors person, room, or property. However, circumstances may arise at a shelter where some sort of search may be necessary to protect the health or safety of other survivors or staff.

e. All survivors residing in the shelter for more than 72 hours are provided with an individualized service plan. The survivor plan reflects assistance to survivor's needs. Programs design service plans to facilitate revision in the event circumstances change. This plan includes

- i. release of information agreements;
- ii. an individual or family plan of self-defined goals and actions to address needed services to maintain safety and create self-sufficiency;
- iii. list of guidelines for children in the shelter;
- iv. length of stay polices.

f. A protocol is developed by each program for safe travel of all survivors. All protocols contain a provision for survivor travel to the shelter for intake. Further, the protocol reflects survivors need for local travel whether provided by themselves, the program or public/private carriers.

3. Discharge of Survivors

a. Family violence shelters establish a length of stay policy that is flexible and that balances the needs of survivors and the program's ability to meet those needs. Length of stay policy cannot be shorter than 6 weeks.

b. Shelters document the attempt to provide an exit interview with each survivor prior to their departure. Minimum categories of exit interview include, but are not limited to, an assessment of program services, treatment by staff (respectful, helpful, available), knowledge of staff in the areas of dynamics of family violence, children's services, safety planning, and goal planning. This is to be completed by survivor through use of a survivor friendly survey. The exit interview provides for a revision of the survivor's safety plan (inclusive of children's safety issues) and linkage to outreach and/or follow up services provided by the program and other community resources. These items are listed in detail on an exit interview form. The exit interview survey and form must be approved by OWS and LCADV.

c. Involuntary Discharge: Shelters must make every effort to work with a survivor in order for them to remain in shelter, except for situations which compromise the safety of others such as

- i. the use of violence or threats of violence;
- ii. the use of behavior that repeatedly disrupts the ability of other survivors/children to receive safe and effective services;
- iii. possession of illegal substances;
- iv. possession of firearms, stun-guns, knives or any other weapon that may be used or by accident to threaten a life;
- v. active suicidal or homicidal behaviors;
- vi. violating the confidentiality of another resident.

d. An individual service plan/contract is developed with the survivor and appropriate documentation placed in the survivor's file which demonstrates attempts to assist the survivor and/or her children with problematic/disruptive behaviors.

i. Example A: A survivor is drinking alcohol and returning to the shelter intoxicated. Once sobriety is established, the program staff addresses this problem with the survivor and offer to develop a contract or service plan regarding this situation, such as requiring the survivor to attend AA meetings and assisting the survivor to those meetings. If the contract is not followed or the situation reoccurs, then steps to find other resources for the survivor are offered. If this is not accepted, the survivor may be asked to leave. The contract and service plan are documented in survivor's file to reflect the process of offering assistance.

ii. Example B: A survivor's child's behavior is repeatedly disruptive or destructive. A worker addresses this problem with the survivor/parent and offers suggestions to remedy this by developing a plan which may include alternate resources such as a parental support group or referrals to other appropriate child service providers in the community.

e. Survivors may be asked to leave under the following circumstances: credible threats to others, with intent to harm; unresolved disruptive or abusive behavior; or if the safety of the shelter is compromised by their continued presence.

4. Re-entry

a. Shelters do not discriminate against a survivor by limiting the number of times of re-entry or by requiring a time limit between re-entry. Programs do not maintain a "no re-admit" list; however it is permissible to "not admit at this time" if a survivor is not currently appropriate. This information is documented in survivor's file. Reentry status reflects the survivor's need and behaviors at the current time and is not based on past situations.

Section Eleven: Intervention Services

A. Basic Considerations. These standards assure quality intervention services provided within family violence programs.

B. Standards

1. General

a. The first priority of the staff is immediate response and accessibility for a hotline caller.

b. A family violence program provides a back up system for use during emergencies. A supervisor or designee is available "on call" by way of pager or in some manner of contact that allows for immediate response. Each program establishes a protocol that defines criteria and steps for using the back-up system.

c. Family violence programs keep a record of individual and group supervision for shelter employees. Supervision is implemented no less than monthly for part-time employees (20 or less in a week) and biweekly for full time employees. Documentation of supervision for volunteers is recorded and implemented as if they were part time employees.

d. Documentation of staff/volunteer supervision reflects the fact that the supervision took place and a listing of general subject(s) covered in the session in the personnel or volunteer's file. In the event of problems related to staff performance, documentation is performed according to the program's personnel policies.

e. A protocol is developed by each program for safe travel of survivors. Protocols contain a provision for survivor travel to the shelter for intake. Further, the protocol reflects survivors need for local travel whether provided by themselves, the program or public/private carriers.

f. Programs document the attempt to provide an exit interview with each survivor prior to their departure. Minimum categories of exit interview include, but are not limited to, an assessment of programs, services, treatment by staff (respectful, helpful, available), knowledge of staff in the areas of dynamics of family violence, children's services, safety planning, and goal planning. This is completed by the survivor through use of a survivor friendly survey. The exit interview provides for a revision of the survivor's safety plan (inclusive of children's safety issues) and linkage to outreach and/or follow up services provided by the family violence program and other community resources. These items are listed in detail on an exit interview form. The exit interview survey and form is approved by OWS and LCADV.

g. Advocacy, case management and counseling services of family violence programs are empowerment-

based and survivor directed. Empowerment-based intervention refers to survivor-directed interventions or services in which the survivor or recipient of services receives the support and assistance of trained staff who provide safety planning, assistance with meeting physical and emotional needs, education regarding the dynamics of domestic violence and living skills based on a case by case assessment. Empowerment also means allowing the survivor to make her own life choices within the basic eligibility guidelines of the program without coercion or threat of loss of services provided by the program.

h. Participation in intervention services shall be voluntary.

i. Methodology

i. Intervention services are provided in a manner best suited for individual survivors.

ii. The methods selected is provided only with approval of survivors.

iii. Family violence shelters/nonresidential services and outreach services include individual and group intervention services.

iv. Sessions are provided, as appropriate, to individual survivors.

v. Shelter residents are notified in writing that they have at least one hour per day, five days per week of individual sessions available to them at their request. Such sessions are provided by staff trained in techniques of individual, one-on-one intervention and focus on issues of safety planning for the survivor and dependents, physical and emotional needs assessment, planning for meeting those needs, education on the dynamics of family violence and knowledge of community resources with phone numbers provided and available for survivors and children.

vi. Group sessions for survivors and their dependents (separately) are provided, as appropriate, no less than once a week.

vii. Shelters provide developmentally appropriate, multi-age play groups for children on a daily basis during the week. Child care is provided during the parent's initial intake and individual and group sessions if play groups are not available during that time

j. Restricted Methods

i. Couples counseling, in any form, is not provided by family violence programs.

ii. Family counseling that includes the presence of an alleged batterer is not provided by a family violence program.

iii. Mediation services are not provided or accommodated by family violence programs.

iv. Batterer Intervention Services are not allowed to take place on or near the premises of the family violence program. Furthermore, individual staff is not allowed to work with both survivors and batterers. Job descriptions for individual family violence program staff working with survivors and their dependents do not include work with the abusers. No staff whose responsibility it is to provide direct services to survivors, or to supervise or direct programs for survivors, is allowed to participate in or lead batterer intervention program services. These two programs remain entirely separate so that it is apparent to survivors that there is no conflict of interest within the program or staff. This does not, however, preclude staff from overseeing, for the

purposes of holding accountable, batterer intervention program services.

k. Types of Intervention Services

i. Advocacy is defined as the performance of direct intervention in behalf of and with the permission of survivors, to further goals and objectives initiated by the survivor.

(a). Advocacy contacts addressed to individuals or groups not directly employed by the family violence program are not initiated without the survivor's direct permission. Proof of permission is provided by program staff by the recording of such on an approved Release of Confidential Information Form.

(b). Advocates provide only information necessary to achieve the goal of each individual advocacy contact.

ii. Counseling is defined as any individual or group interaction facilitated by program staff for the purpose of addressing emotional needs of adult or child users of services.

- (a). Crisis counseling
- (b). Peer counseling
- (c). Supportive counseling
- (d). Educational counseling

iii. Case Management is defined as any individual or group interaction facilitated by program staff for the purpose of assisting survivors with assessing needs, setting priorities, goal setting, implementing objectives, locating resources, or performing any activities pertaining to the accomplishment of goals. Case management is based upon survivor-identified goals and not a standardized or 'cookie cutter' formula. Case management shall reflect, at least the following:

- (a). Identify and prioritize survivor's needs, including safety planning.
- (b). Identify resources available to survivors.
- (c). Develop goals and objectives specific to the survivors' own goals and record these in a program-approved service plan.
- (d). Staff internal and external referrals to assist in goal/objective achievement.
- (e). Correlation with survivor's length of stay, if in a shelter.
- (f). Progression toward completion of survivor's goals and objectives.
- (g). Adaptation to survivor's changing needs, as appropriate.

l. Provision of Services

i. Each survivor in a shelter will be assigned a resident -advocate/counselor. This staff person is available to meet with the survivor daily, Monday through Friday. Daily face-to-face interaction with the survivor is made available to her in order to check on her safety and other needs and to offer to schedule a meeting time. If the survivor works, the survivor's advocate/counselor may contact survivor via telephone or visiting at workplace if this is desirable and chosen by the survivor.

ii. In the event that a advocate/counselor is sick or on vacation, it is that advocate/counselor's responsibility to make sure that another staff member meets with the survivor on that day. This is documented in the survivor's file.

iii. Empowerment advocacy does not mean the advocate/counselor sits and waits for the survivor to come to her office. Many time survivors of family violence need assistance to ask for the things they need and need to have this modeled for them. This is the advocate/counselor's responsibility to daily offer and model empowerment to survivors.

m. Appointments and availability of services

i. Intervention staff, whether shelter or nonresidential, is provided during times when most survivors need to access and receive services. Survivors are informed of the process by which they may gain access, informally and by appointment, to advocates within the program in which they are receiving services.

ii. At the time appointments are made, staff assists individual survivors in developing a safety plan, as necessary, for traveling to and from appointments.

2. Documentation

a. Documentation for Advocacy, Counseling & Case Management contains at least:

- i. Demographic data,
- ii. Lethality assessment;
- iii. History of Abuse;
- iv. Safety Plan;
- v. Description of the abuser;
- vi. Individualized Service Plan;
- vii. Children's assessment (if children in the family);

viii. Notification of Exceptions to Confidentiality, advising survivors of advocate's duty to release confidential information in the following circumstances:

- (a). report child abuse
- (b). protect against danger to self or others
- (c). summon emergency services
- (d). maintenance of safety and health standards

of shelter facilities

- ix. Release of Liability form;
- x. Informed Consent to Release Confidential Information form(s);
- xi. Exit Interview

b. Documentation for Advocacy contains at least (A) Demographic data and appropriate releases of information as needed; and (B) Document dates of advocacy and contact.

c. Documentation for Case Notes reflects the following:

- i. Notes are entered in chronological order;
- ii. Notes have full signature of advocate/counselor;
- iii. Entries are made immediately after all survivor contact;
- iv. White-out is not used;
- v. Only necessary facts are recorded;
- vi. Notes do not contain any diagnosis or clinical assessments;
- vii. Notes on one survivor do not include other survivor names;
- viii. Errors are corrected by drawing one line through it, write "error" and
- ix. initial; then continue with note.

3. Computer Generated Case Notes

a. In the event of the use of computer-generated case notes or survivor records, it is the responsibility of each family violence program to assure confidentiality of information. Each program must maintain a written policy and accompanying procedures that reflect security measures. These contain, but are not necessarily limited to:

i. A generalized policy stating the responsibility of all staff and volunteers to assure survivor confidentiality.

ii. A standardized protocol for creating and securing computerized survivor data on all computers including portable laptops.

(a). Stating which data entries are allowable and those which are not.

(b). Outlining use and storage of disks.

(c). Outlining the uses and protection of hard-drive storage (including protocols for use of passwords).

(d). Outlining the use and methods of network systems storage.

(e). Outlining protocols for the creation, routing and storage of hardcopy materials generated from computer-based records. Further, programs provide the following:

(i). access to computerized confidential records is protected by the use of appropriate software and passwords;

(ii). protocols for timely download or deletion of survivor-related information is provided when computers are shared without use of passwords;

(iii). in the event a protocol includes use of a computer's recycle bin, staff are required to delete the information from the recycle bin as a final step in the process of deleting confidential files.

4. Support Groups

a. Interactive group sessions are topic oriented, or informational and educational, and conducted in a process that is survivor-directed, and facilitated by qualified trained program staff/volunteers.

b. Family violence programs highly recommend that the adult survivors attend a minimum of three support groups while residing in a shelter or when being seen individually in non-resident advocacy. The unwillingness for this to occur by the survivor may not be used as a reason to remove survivors from programs. Also, children of adult survivors may not be restricted from attending children's group if the mother refuses support group, although the mother may be required to remain at the program while her child is in group.

c. Family violence programs provide at least one weekly group for adult survivors while providing at the same time, a multi-age play group for the children of the adult survivors. If the children's group is not always possible, then at the very minimum, appropriate child care is provided during the adult survivor's group.

d. Support group attendance is documented in each survivor's file to include, date of group, topic of discussion, any factual information pertinent to the survivor and signed by the group facilitator.

e. Family violence shelters are encouraged to provide support groups to residents and non-residents, including former residents.

f. Support group services provide understanding and support, which includes, but is not limited to:

i. active and reflective listening;

ii. addressing the needs identified by those attending group session;

iii. building self-esteem;

iv. problem solving;

v. recognition that survivors are responsible for their own life decisions and that batterers are responsible for their violent behavior.

g. Support group services provide education and information that includes, but is not limited to:

i. how batterers maintain control and dominance;

ii. the role of society in perpetuating violence against women;

iii. the need to hold batterers accountable for their actions;

iv. the social change necessary to eliminate violence against women, including discrimination based on race, gender, sexual orientation, disabilities, economic or educational status, religion or national origin.

5. Court/Legal Advocacy

a. Family violence programs providing court advocacy assist survivors in receiving self-identified interventions and actions sought from the civil and/or criminal justice systems.

b. Court advocacy is provided by qualified, trained staff members or volunteers.

c. Family violence programs providing court advocacy services:

i. assure that appropriate staff and volunteers have a working knowledge of current Louisiana laws pertaining to family violence, as well as the local justice system's response to family violence, including court rules, in each parish services are provided.

ii. strictly monitor and prohibit staff members and volunteers from practicing law or providing legal representation if they are not properly certified to engage in such a legal practice.

iii. maintain a current list of local criminal and civil justice agencies and contact persons in each parish where services are provided.

iv. maintain a current referral list of local attorneys, including pro bono resources, who are sensitive and familiar with legal issues and orders of protection, for representation in civil and criminal cases, with contact person identified in each parish where services are provided.

v. train and offer assistance to the criminal and civil justice system within the parishes served, in order to build a working relationship and institute a law enforcement protocol involving family violence.

d. Family violence programs that provide court advocacy services provide the services in shelter and nonresidential settings.

e. Court advocates are responsible for documenting services provided and the outcome of those services in each survivor's file. If volunteers provide services, court advocates obtain the necessary information and document.

6. Children's Services

a. Programs have on staff a child advocate/counselor who is trained in a minimum of the following areas:

i. the developmental stages of childhood, including physical, social, cognitive, and emotional stages;

ii. developmentally appropriate process;
iii. a working knowledge of family violence and its effects on children (including the ways that mothers are often revictimized by the child welfare and educational system, etc.);

- iv. assertive discipline techniques,
- v. non-violent conflict resolution,
- vi. the warning signs of child abuse,
- vii. appropriate methods for interviewing children

who have disclosed abuse,

viii. how the child welfare system works and their role as "mandated reporters".

b. Child Services include but are not limited to:

i. at shelters, child advocates conduct a child intake interview with the mother of the child(ren) within 48 hours of shelter arrival. Nonresidential programs conduct a child intake as soon as possible after the survivor's initial contact with the program. Intake forms are completed by the mother. Intake forms include areas of concern the mother has for each child, physical needs of the child, social or educational needs of the child, education level of the child, any learning disabilities or diagnoses, medications the child is on and what they are for, any child abuse suspected or documented, type of discipline used in the home and its effectiveness, check list for problem areas, such as, weight, eating, sleeping, hygiene, motor skills, language skills, bedwetting, handling conflict, relationship with adults and with other children.

ii. at the intake interview, the child advocate discusses child guidelines in detail, including discipline guidelines, offers help and guidance in following the guidelines, discusses child services offered. This information is documented in the survivor's record. If programs offer booklets giving this information, they can be given in addition to the required face-to-face interview with the mother.

iii. child advocates provide a physical and social assessment of each child within the first 72 hours of shelter and make appropriate referrals and appointments to meet the areas of need. In nonresidential programs the assessment follows the initial intake.

iv. child advocates have a face-to-face meeting with each child or sibling group within 48 hours of shelter following the child intake interview. In this meeting the child advocate introduces herself, lets the child(ren) know she is there to help them in any way she can, provides a tour of the shelter, talks about the guidelines of the shelter, and the discipline guidelines. Some programs may provide shelter books which cover this material, but this does not replace the face-to-face meeting with the child(ren).

v. child advocates and trained volunteers conduct a daily (M-F) 2 hour playgroup for children from the ages of 3-11. In nonresidential programs playgroups are held at the time that survivors are in support groups. This playgroup is a time to allow children to play in a safe, structured environment. The playgroup is to be based on a developmentally-appropriate philosophy. While the playgroup is planned and facilitated by the child advocate, the child directs her/his own progress in the group. This is to empower the child, offering the child a safe and appropriate place to say "no" and to learn consistency, structure, and non-violent conflict resolution.

vi. goals of the playgroup are: breaking the "conspiracy of silence", how to protect oneself, to have a positive experience, strengthening self-esteem and self-image.

vii. each child with the assistance of the child advocate develops a personalized safety plan. The plan addresses living at the shelter and also if the mother returns to the perpetrator. Both safety plans are done as soon as possible because no one knows when the mother may return. This is documented in the mother's file.

viii. child advocates may conduct a weekly education group for the mothers, including education on developmental stages and discipline techniques. Group attendance and topic to be discussed are documented in each survivor's file.

ix. child advocates are available to meet with each mother at least once a week in an individual session. This is a time when mothers can share problems they are having and get assistance with the solutions. Methods of parenting education are respectful and non-victim blaming of the adult survivor.

x. if at all possible, each child or sibling group is given an exit interview. In this interview child(ren) can assess child services and staff in some type of developmentally appropriate way. Safety planning and discussion of transition period are discussed. Exit interview is documented in survivor's file.

7. Crisis Line or Hotline

a. Family violence programs operate a 24-hour a day seven day a week crisis line answered by a qualified trained staff or volunteer.

b. Hotline numbers are listed in the local telephone book and widely distributed in areas served by the FV program.

c. Hotlines are answered using the name of the family violence program.

d. Hotlines are answered by trained staff or volunteers of the programs. The use of commercial or mechanical answering services is prohibited. Volunteers are not allowed to make final determinations about shelter eligibility.

e. Programs have a minimum of two telephone lines, one of which is the designated hotline.

f. Hotlines have call block, to safe guard against caller ID and *69 services. Local telephone companies can assist with needed information and services.

g. When holding/transferring calls

i. Staff completes initial assessment as to immediate danger before putting caller on hold.

ii. Callers on hold are checked back with within two minutes.

iii. Prioritize calls through safety and lethality assessment.

h. Staff/volunteers answering hotline calls are in a place that is quiet, free of distractions, and confidential; a private office if possible.

i. If a professional, or third party, calls on behalf of a survivor of family violence generalized information may be given about family violence and program services and requirements, but the staff person or volunteer must talk directly with the survivor regarding a personalized safety

plan, danger/lethality assessment and shelter, or other services, and eligibility.

- j. Hotline services include, but are not limited to:
 - i. crisis intervention,
 - ii. assessment of caller's safety and needs,
 - iii. emergency protocols (i.e. calling 911; is batterer present or within hearing)
 - iv. lethality/danger assessment,
 - v. FV education,
 - vi. information or referrals to available community resources,
 - vii. an appropriate form documenting each hotline call, the services offered and/or referrals made, and a plan of action, including information received in calls from professionals or third parties.

- k. When using administrative and outreach phones:
 - i. anyone answering the telephone has a working knowledge of how to screen and assist hotline callers and the requirements of the crisis line, i.e. restrictions about being placed on hold, etc.

- ii. after-hours, weekends and holidays, administrative and outreach phones are answered by devices that clearly direct callers to the hotline.

- l. Prior to receiving calls, hotline staff complete family violence training approved by OWS and LCADV.

- m. If either party is using a cell or mobile phone, the caller is made aware that confidentiality cannot be guaranteed. Family violence programs do not use mobile remote phones for crisis lines because of confidentiality. This does not preclude digital phones that are confidential.

- n. If call forwarding is used to assure staffing of the service, it is the responsibility of the program staff to assure safety and confidentiality. Some issues to be addressed through written protocols when calls are forwarded to non-program locations:

- i. the potential for family member to answer or pick-up (by way of an extension line) a hotline call.

- ii. the potential of a personal answering machine to pick-up on an incoming call.

- iii. the potential for calls to be routed to a cellular telephone that is answered by an advocate/volunteer in public place.

- iv. the potential of staff's/volunteer's personal telephone lines to be traced or identified through "caller ID" or other features.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

Section Twelve: Transitional Living/HOUSING Program

A. Basic Considerations. These standards assure family violence programs offering transitional living/housing as part of their service delivery plan provide appropriate and quality services to survivors of family violence and their children in an empowering, non blaming way. Service provided through the transitional living/housing program is not an activity but a process that involves the survivor in goal setting, case management, needs assessment, resource identification and staff/survivor interaction.

B. Standards

1. Persons eligible for transitional living/housing are survivors of family violence who have some affiliation with

the family violence program providing housing either in a residential or non-residential capacity, have left an abusive relationship and meet the following criteria.

- a. The resident has a willingness to work or enroll in a continuing education or job training/readiness program.

- b. The resident agrees to a criminal history check to ensure that there are no pending legal issues that pose a threat to the other residents.

2. Programs offering transitional living/housing develop and implement formal screening procedures that include the following:

- a. application process;

- b. screening process:

- i. direct service staff approval;

- ii. administrative approval;

- c. verification process (Verification of status should be given to applicant in writing);

- i. accepted/ready for housing;

- ii. accepted/added to waiting list;

- iii. conditional acceptance (to include explanation);

- iv. denied.

3. Programs offering transitional living/housing establish rental agreements with eligible survivors entering the program to include the following:

- a. written agreement for transitional living/housing;

- b. deposits (when applicable);

- c. move in date;

- d. guidelines for housing and transitional living;

- e. visual inspection and inventory (if applicable) of housing site.

4. The grievance procedure reflects OWS Standards and individual program policy. Grievance procedures are provided, in writing, to each resident.

5. Programs provide comprehensive supportive service/case management that is survivor directed and includes appropriate referrals to alternate resources, safe living arrangements, safety planning, child care, children's activities, individual and group/support counseling, assistance with housing and public assistance programs, legal advocacy, life skill development and staff/survivor interaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 26:

All interested persons may submit written or oral comments on the proposed rule through May 19, 2000 to Vera Clay, Executive Director, Governor's Office of Women's Services, P.O. Box 94095, Baton Rouge, Louisiana 70804-9095.

Family Impact Statement

The proposed Standards should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

- 1. the stability of the family;

- 2. the authority and rights of parents regarding the education and supervision of their children;

- 3. the functioning of the family;

- 4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Vera Clay
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Family Violence Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Standards were published at a cost of \$387.15. (Federal Funds) It is expected that costs for 2000-2001 and 2001-2002 will increase modestly to implement the project. (Funds will be Federal) The workload for the project is being absorbed by the current staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs to any affected persons or non-governmental groups. Family Violence survivors and their children will benefit from high quality services provided in compliance with the Standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Vera Clay
Executive Director
0004#015

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Criminal History Record Information (LAC 46:XLVII.3330)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to the criminal history record information. The proposed amendments of the rules are set forth below.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3330. Criminal History Record Information

A. Authority of the Louisiana State Board of Nursing (Board). The board derives its authority to obtain criminal history record information from R.S. 37:920.1.

B. The following applicants for licensure or permission to enroll in clinical nursing courses shall submit to a criminal history record information check:

1. registered nurse by examination;
2. registered nurse by endorsement;

3. advanced practice registered nurse, if records not checked in relation to the RN license reinstatement of RN and/or APRN license, if license has not been active for five years or more;

4. registered nurse students prior to enrollment in the first clinical nursing course.

C. The board may require criminal history record information checks of the following individuals:

1. an applicant for any license, permit, reinstatement, or permission to enroll in clinical nursing courses if there is reason to believe there is information relative to evaluating the applicants eligibility or disqualification for licensure;

2. a licensee as part of the investigation process if there is reason to believe there is information relative to eligibility or disqualification for continued licensure.

D. The applicant or licensee must review and sign the Authorization to Disclose Criminal History Record Information.

E. The applicant or licensee must contact the state or local police/sheriff department and submit two fingerprint cards to be completed. The law enforcement agency may specify a designated location and fee for the completion of the fingerprint cards.

F. The two completed fingerprint cards must be returned to the board office by the applicant or licensee with the required fee. The cards and fee will be forwarded to the Louisiana Department of Public Safety. The second card will be forwarded to the Federal Bureau of Investigations by the Louisiana Department of Public Safety.

G. The submission of the fingerprint cards and the signed Authorization to Disclose Criminal History Record Information must be received prior to the license being processed or during the semester that the first clinical nursing course has begun.

H. The processing of the license or the entry into clinical nursing courses may not be delayed awaiting these reports; however, future action may result if the criminal history record information so indicates. If the criminal history record reveals criminal activity which constitutes grounds for denial under R.S. 37:921. or LAC 46:XLVII.3331, then the license issued shall be recalled or the progression in clinical nursing courses may be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:920.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 26:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on May 5, 2000.

Family Impact Statement

I. What effect will this rule have on the stability of the family?

This rule will have no effect on the stability of the family.

II. What effect will this have on the authority and rights of persons regarding the education and supervision of their children?

This rule has no effect on education and supervision of children.

III. What effect will this have on the functioning of the family?

This rule has no effect on the functioning of the family.

IV. What effect will this have on family earning and family budget?

Families who comprise registered nurse applicants and/or registered nurse students would be impacted.

V. What effect will this have on the behavior and personal responsibility of children?

This rule has no effect on behavior and personal responsibility of children.

VI. Is the family or local government able to perform the function as contained in this proposed rule?

The family or local government cannot perform the function as contained in this proposed rule.

Barbara L. Morvant
Executive Director, M.N.,R.N.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Criminal History Record Information

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will increase expenditures by \$56,569 in FY 01 and \$60,586 in FY 02. The costs include personnel services of one FTE clerical employee (Clerk 4), \$16,471, and 0.5 FTE professional employee (RN Program Manager), \$31,108. The base salary amount for the personnel is increased by 12.4% for retirement, 1.45% for payroll taxes, \$1,200/year for health insurance, and 4% increase each year for merit increases.

The operating expenses include two new forms estimated at a cost of \$500 per year and office supplies at \$200 per year. Other charges for FY 00 include one file cabinet at \$500 and cost to publish the rule in the *Louisiana Register* at \$45.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana State Board of Nursing will not receive any revenue from this rule change. The fees collected will be forwarded to the Louisiana Department of Public Safety to pay for the state and national criminal checks.

The Louisiana Department of Public Safety will receive the \$10 fee for the state criminal check. The Federal Bureau of Investigation (FBI) will receive the \$24 fee for the national criminal check. The Louisiana Department of Public Safety (State Police) will process an estimated 6,220 fingerprint cards to do the state criminal check and will forward that same number to the Federal Bureau of Investigation to do the national criminal check. This change represents an increase in state checks by 4,000 at a revenue of \$10 per check for a total of \$40,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Registered nurse applicants and registered nurse students enrolling in the first clinical nursing course will have to pay \$34 for the state and national criminal checks, \$10 to state and \$24 to federal, plus the cost of having the fingerprint card completed (estimated at \$10).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition by this proposed rule. There may be some impact on employment in that the state and national criminal records may cause the denial of licensure for registered nurse license or denial of progression to the first clinical nursing course by registered nursing students who are found to have serious criminal histories.

Barbara L. Morvant, M.N., R.N.
Executive Director
0004#096

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Disciplinary Proceedings (LAC 46:XLVII.3403 and 3404)

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. 37:918 and R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to the Proceedings Against a Registered Nurse; Advanced Practice Registered Nurse; Registered Nurse Applicant; APRN Applicant or a Student Nurse and repeal LAC 46:XLVII.3404, Proceedings Involving Students Enrolled in Clinical Nursing Course The proposed amendments of the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 34. Disciplinary Proceedings; Alternative to Disciplinary Proceedings §3403. Proceedings Against a Registered Nurse, Advanced Practice Registered Nurse, Registered Nurse Applicant, APRN Applicant or a Student Nurse

A. The board may deny, revoke, suspend, probate, limit, reprimand, or restrict any license to practice as a registered nurse or an advanced practice registered nurse, impose fines, assess costs, or otherwise discipline an individual in accordance with R.S. 37:921-925 and the board may limit, restrict, delay or deny a student nurse from entering or continuing the clinical phase of education in accordance with R.S. 37:921-925.

B. - C. . . .

D. Grounds for disciplinary proceedings are specified in R.S. 37:921:
1. - 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:921, R.S. 37:922 and R.S. 37:923.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 21:269 (March 1995), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 26:

§3404. Proceedings Involving Students Enrolled in Clinical Nursing Courses

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:921, R.S. 37:922 and R.S. 37:923.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 24:1293 (July 1998), repealed by the Department of Health and Hospitals, Board of Nursing, LR 26:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on May 5, 2000.

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed revisions to the rule for Proceedings Against a Registered Nurse, Advanced Practice Registered Nurse, Registered Nurse Applicant, APRN Applicant or a Student Nurse and repeal of Proceedings Against a Registered Nurse will have no known impact on family formation, stability and autonomy, as set forth in R.S. 49:972.

Barbara L. Morvant
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Disciplinary Proceedings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only implementation cost is the \$45 cost to publish the rule in the *Louisiana Register*. Sections 3403 and 3404 are being combined. The context of the rules does not change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant, M.N., R.N.
Executive Director
0004#097

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Official Office of the Board
(LAC 46:XLVII.3305)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to the appointing authority of the executive director. The proposed amendments of the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter A. Board of Nursing

§3305. Official Office of the Board

A. ...

B. An executive director, who shall be a registered nurse, shall be appointed by the board to carry out functions of the board relative to its statutory requirements and other work defined by the board. The executive director serves as appointing authority and may appoint any additional employees for professional, clerical, and special work necessary to carry out the board's functions and with the board's approval, may establish standards for the conduct of employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:919 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of nursing, LR 7:73 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:104 (February 1996), LR 24:1293 (July 1998), amended LR 26:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on May 5, 2000.

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed related to the board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Barbara L. Morvant
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Official Office of the Board

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The only implementation cost is the estimated \$45 cost of publishing the rule in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no estimated cost and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment

Barbara L. Morvant, R.N, M.N
Executive Director
0004#095

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Drug Returns (LAC 46:LIII.3517)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1163 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend the referenced rule.

The full text of this proposed rule may be obtained by contacting the Louisiana Board of Pharmacy at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, LA 70808, or by telephoning (225) 925-6496.

Any person may submit data, views, or positions, orally or in writing, to the Louisiana Board of Pharmacy as indicated above. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 1:00 p.m. to 4:00 p.m. on May 30, 2000 at the Baton Rouge Hilton Hotel, 5500 Hilton Avenue, Baton Rouge, La.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 35. Pharmacy Prescription Drugs §3517. Drug Returns

A. Drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed except:

1. In a hospital with a permitted hospital pharmacy on site, drugs may be returned to the pharmacy in accordance with good professional practice standards.

2. In facilities licensed by the Louisiana Department of Health and Hospitals where United States Pharmacopoeia (USP) storage requirements can be assured, legend drugs, except controlled substances, dispensed in unit dose or in individually sealed doses may be transferred to a provisional permitted pharmacy for relabeling and dispensing to the indigent, free of charge, pursuant to a valid prescription order.

a. The pharmacist-in-charge (PIC) of the provisional permitted pharmacy shall be responsible to determine the suitability of the product for reuse.

i. No product where integrity cannot be assured shall be accepted for re-dispensing by the pharmacist.

ii. A re-dispensed prescription medication shall be assigned the expiration date stated on the package.

iii. No product shall be re-dispensed more than one time.

b. Pursuant to a voluntary agreement between a facility licensed by the Louisiana Department of Health and Hospitals and a pharmacy holding a provisional permit from the Louisiana Board of Pharmacy, legend drugs, except controlled substances, may be transferred from the facility to the pharmacy provided the following procedures are satisfied:

i. The physical transfer shall be accomplished by a person authorized to do so by the provisional permitted pharmacy.

ii. The patient from whom the prescription medication was obtained shall document their consent for the donation; the consent shall be maintained on file at the facility.

iii. The patient's name, prescription number, and any other identifying marks, shall be obliterated from the packaging prior to removal from the facility.

iv. The drug name, strength, and expiration date shall remain on the medication package label.

v. An inventory list of the drugs shall accompany the drugs being transferred; at a minimum, the list shall contain the medication name, strength, expiration date, and quantity.

vi. Expired drugs shall not be transferred; personnel designated by the facility shall destroy them on-site.

AUTHORITY NOTE: Promulgated in accordance with LRS 37:1182.A.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency rule.

I. The Effect on the Stability of the Family. Implementation of this proposed rule will have no known effect on the stability of the family.

II. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no known effect on the authority and rights of parents regarding the education and supervision of their children.

III. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no known effect on the functioning of the family.

IV. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no known effect on family earnings but a beneficial effect on the family budget of certain indigent patients. These indigent patients may receive, free of charge, medications transferred to provisional pharmacies.

V. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no known effect on the behavior and personal responsibility of children.

VI. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no known effect on the ability of the family or a local government to perform the function as contained in the proposed rule.

Malcolm J. Broussard, RPh
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Drug Returns

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to the agency to implement the proposed rule consists of printing and distribution of the rule to the 2000 holders of the Louisiana Board of Pharmacy Book of Laws and Regulations. That cost is estimated to be \$3,422. The agency has sufficient self-generated funds budgeted and available to implement this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent that uninsured individuals receive medications through the state hospital system, the Board anticipates a potential cost avoidance for the Department of Health and Hospitals as well as the Health Care Services Division of Louisiana State University. At this time, the Board cannot determine the potential cost due to the lack of historical data.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The organizations directly affected by this proposed rule are the provisional "free" pharmacies located throughout the state. These pharmacies will benefit through the donation of previously dispensed medications from patients in certain health care facilities. The donated medications will then be dispensed, free of charge, to qualified indigent patients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition and employment cannot be determined at this time.

Malcolm J. Broussard
Executive Director
0004#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Pharmacy Technicians (LAC 46:LIII.Chapter 8)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1163 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to repeal the current contents of the referenced chapter and adopt the proposed entire chapter.

Pursuant to the authority granted under R.S. 37:1212, the Board adopts the following minimum training, education, continuing education, and examination requirements for pharmacy technicians.

The full text of these proposed rules may be obtained by contacting the Louisiana Board of Pharmacy at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, LA 70808, or by telephoning (225) 925-6496.

Any person may submit data, views, or positions, orally or in writing, to the Louisiana Board of Pharmacy as indicated above. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 1:00 p.m. to 4:00 p.m. on May 30, 2000 at the Baton Rouge Hilton Hotel, 5500 Hilton Avenue, Baton Rouge, LA.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 8. Pharmacy Technicians

§801. Qualifications

A. A pharmacy technician trainee (hereinafter referred to as "trainee") shall meet the following conditions:

1. Age-at least 18 years of age, as evidenced by copy of birth certificate.

2. Character-good moral character and be non-impaired, as evidenced by copy of criminal background check.

3. Education-high school graduate or GED equivalent, as evidenced by copy of credential.

4. Experience-obtain a minimum of 1,000 hours practical experience in a pharmacy permitted by the Board, as evidenced by signed affidavit.

5. Examination-pass the Board-approved pharmacy technician examination, as evidenced by copy of credential.

B. Exception-a pharmacist or pharmacist intern whose license has been denied, revoked, suspended, or restricted for disciplinary reasons by any Board of Pharmacy shall not be a trainee or a pharmacy technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§803. Experience

A. Upon receipt of a properly completed application for a Pharmacy Technician Trainee Work Permit, the Board shall issue a work permit to the trainee in order to obtain the necessary practical experience.

1. The work permit shall be displayed in the prescription department.

2. The work permit shall expire one year from the effective date.

3. After expiration of an initial work permit, the trainee shall not apply for another work permit for a period of 36 months.

4. A trainee shall notify the Board, in writing, within ten days of a change in the mailing and/or home address, giving their name and social security number, as well as old and new addresses.

5. The Board shall reserve the right to refuse or recall any work permit for just cause.

B. A trainee shall supply by affidavit evidence of a minimum 1,000 hours practical experience earned under the direct and immediate supervision of a pharmacist.

1. The ratio of pharmacist to trainee on duty shall not exceed one-to-one.

2. Hours shall be listed on an affidavit supplied by the Board, signed by the pharmacist and the trainee, notarized, and submitted to the Board for approval and/or credit.

3. A trainee may receive credit for a maximum of 50 hours per week.

4. A trainee shall not obtain hours in a permitted site that is on probation or with a pharmacist who is on probation.

5. A separate affidavit shall be required for each permitted site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§805. Examination

A. The board approved pharmacy technician examination shall consist of integrated subject disciplines, as the Board may deem appropriate.

B. The pharmacy technician examination may be offered when necessary as determined by the Board.

C. A trainee shall pass the Board-approved pharmacy technician examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§807. Pharmacy Technician Certificate

A. Upon receipt of a properly completed and notarized application and the appropriate fee, and following verification that all requirements have been satisfied, the Board shall issue a pharmacy technician certificate to the trainee.

B. The pharmacy technician certificate shall be displayed in a conspicuous place in the prescription department in such a manner as to be visible to the public. The annual renewal shall be attached or posted next to the pharmacy technician certificate.

C. In the event of loss or destruction of a pharmacy technician certificate, the Board may issue a duplicate upon receipt of a properly completed and notarized affidavit and the appropriate fee.

D. The pharmacy technician annual renewal shall expire and become null and void on June 30 of each year.

1. The Board shall mail no later than May 1 of each year an application for renewal to all pharmacy technicians.

2. An application for a lapsed pharmacy technician renewal, accompanied by all outstanding fees, shall be referred to the Board's reinstatement committee for consideration.

E. A pharmacy technician shall notify the Board, in writing, within ten days of any change in mailing and/or home address, giving their name and certificate number, as well as old and new addresses.

F. A pharmacy technician shall notify the Board, in writing, within ten days of a change in employment, listing the name, address, and permit numbers of old and new employment pharmacies, as well as their name and certificate number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§809. Continuing Education

A. A minimum of one ACPE or Board approved CPE unit, or ten hours, shall be required each year as a prerequisite for annual renewal.

B. Certified pharmacy technicians shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the Board.

C. If judged appropriate by the Board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the Board shall notify all pharmacy technicians prior to the beginning of the year in which the CPE is required.

D. Complete compliance with CPE rules is a prerequisite for renewal of a pharmacy technician certificate.

1. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241.A.(2) and shall constitute a basis for the Board to refuse annual renewal.

2. The failure to maintain an individual record of personal CPE activities, or falsifying CPE documents, shall be considered a violation of R.S. 37:1241.A.(22).

3. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the Board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§811. Impaired Pharmacy Technician

A. An impaired pharmacy technician is one who suffers from a condition that may cause an infringement on the ability to work safely or accurately. The impairment may be caused by, but not limited to, the following factors:

1. alcoholism;
2. substance abuse or addiction;
3. mental illness;
4. physical illness; or
5. injury.

B. The Board may require an impaired pharmacy technician to comply with the Louisiana Board of Pharmacy Recovery Program for Impaired Pharmacy Technicians, as described in LAC 46:LIII.521.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§813. Implementation

A. This chapter shall become effective September 1, 2000.

B. All trainee work permits issued on or before August 31, 2000 shall expire on September 30, 2000.

C. On September 1, 2000, trainees who are in need of additional practical experience to meet the requirement of 1000 hours may apply for one new work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency rule.

I. The Effect on the Stability of the Family

Implementation of this proposed rule will have no known effect on the stability of the family.

II. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children.

Implementation of this proposed rule will have no known effect on the authority and rights of parents regarding the education and supervision of their children.

III. The Effect on the Functioning of the Family

Implementation of this proposed rule will have no known effect on the functioning of the family.

IV. The Effect on Family Earnings and Family Budget

Implementation of this proposed rule will have no known effect on family earnings and family budget.

V. The Effect on the Behavior and Personal Responsibility of Children

Implementation of this proposed rule will have no known effect on the behavior and personal responsibility of children.

VI. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule

Implementation of this proposed rule will have no known effect on the ability of the family or a local government to perform the function as contained in the proposed rule.

Malcolm J. Broussard, RPh
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pharmacy Technicians

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to the agency to implement the proposed rule consists of printing and distribution of the rule to the 2000 holders of the Louisiana Board of Pharmacy Book of Laws and Regulations. That cost is estimated to be \$3,422. The agency has sufficient self-generated funds budgeted and available to implement this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The agency anticipates and has budgeted a decrease of \$10,000 in licensure fees from pharmacy technicians for FY 00-01. As the pool of pharmacy technician trainees adapt to the new rules, the Board anticipates a return to baseline in the number of new pharmacy technician licenses issued annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only persons directly affected by this proposed rule are the approximately 700 pharmacy technician trainees currently working toward certification as pharmacy technicians. There is no increase in costs to the trainees as a result of this proposed rule. The Board is unable to determine any impact on income or receipts by the trainees as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Following an initial decrease in the number of pharmacy technician trainees qualifying for certification and employment as pharmacy technicians, the Board anticipates a return to baseline in the number of new pharmacy technician licenses issued annually by the agency. The effects on competition cannot be anticipated at this time.

Malcolm J. Broussard
Executive Director
0004#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Health and Hospitals Board of Physical Therapy Examiners

Licensure; Unauthorized Practice; and
Supervision (LAC 46:LIV.Chapters 1 and 3)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by R.S. 2401.2A(3) intends to amend its existing rules as set forth below. The proposed amendments to the rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIV. Physical Therapy Examiners
Subpart 1. Licensure

Chapter 1. Physical Therapists and Physical Therapist Assistants

Subchapter B. Graduates of American Physical Therapy Schools

§107. Qualifications for License

A. - B.3. ...

4. have graduated from an associate degree program accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE); and

B.5 - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:662 (July 1991), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:

§109. Procedural Requirements

In addition to the substantive qualifications specified in §107, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§123-129 of this Chapter, and if applicable, the procedures and requirements for examination required by the board provided by §§131-149 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 26:

Subchapter C. Graduates of Foreign Physical Therapy Schools

§115. Qualifications for License

A. - A.1. ...

2. have successfully completed his education in physical therapy that is substantially equivalent to the requirements of physical therapists educated in accredited physical therapy programs in the United States as the board, upon evaluation of the applicants educational program by an approved credentials evaluation service, deems sufficient, however, such substantially equivalent education shall be no less than a total of 120 semester hour credits which includes a minimum of 60 semester hour credits for professional education and a minimum of 40 semester hours of general education as established in a course work evaluation tool approved by the board;

3. - 5. ...

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:

§117. Procedural Requirements

In addition to the substantive qualifications specified in §115, to be eligible for a license, a foreign graduate applicant shall satisfy the procedures and requirements for application provided by §§123-129 of this Chapter, and the procedures and requirements for examination required by the board required in §§131-149 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 26:

Subchapter E. Application

§125. Application Procedure

A. Application for licensure shall be made on original forms supplied by the board.

B. If application is made for licensure on the basis of examination, such examination shall be a national examination approved by the board and administered at an approved testing service.

C. Application for licensure by reciprocity shall comply with the requirements set forth in Subchapter D.

D. - I. ...

J. To assure equal opportunity for all persons, the board will make reasonable accommodations for an applicant for licensure by examination if the applicant has a qualified disability pursuant to applicable law and is approved by the board. A request for a reasonable accommodation, with supporting documentation, must be submitted in writing to the board during the application process and within a reasonable time before administration of the examination for the board to make a decision regarding the request.

K. Every applicant shall personally sign his application for licensure and oath.

L. An application which is incomplete will be closed after six months of inactivity. At the end of this period, any application which is not completed will be considered abandoned and closed by the board and any fees paid shall not be refunded. Should the applicant re-apply after his incomplete application is closed, he shall be required to begin the process anew which includes the payment of the application fee to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 26:

§127. Additional Requirements for Foreign Graduates

A. ...

B. As a condition to the board's consideration of a foreign graduate application, the board must receive a comprehensive credential evaluation certificate from an approved credentialing agency which includes, but is not limited to, the Foreign Credentialing Commission on Physical Therapy (FCCPT).

C. A foreign graduate must comply with §125, and more particularly in complying with §125.I, the board-approved supervisor shall also attend the personal appearance of the

applicant with a member of the board, or its designee, as a condition to the board's consideration of his application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), LR 26:

Subchapter F. Examination

§131. Designation of Examination

The examination approved by the board pursuant to R.S. 37:2409 shall be standardized and nationally accepted by the Federation of State Boards of Physical Therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:

§135. Dates, Places of Examination

Once the application process is completed, including the payment of fees, the applicant will be notified of his eligibility to schedule the examination at any approved testing service. Within 60 days from the date specified in the eligibility letter, the applicant must sit for the examination. If the examination is not taken within the referenced 60 days, the applicant is removed from the eligibility list and must begin the application process again including the payment of the examination costs to the Federation of State Boards of Physical Therapy Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 26:

§137. Administration of Examination

A. The Board's licensing examination is administered by an approved testing service and is computer based. The testing service is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination; to establish and require examinees to observe an appropriate seating arrangement; to provide appropriate instructions for taking the examinations; to fix and signal the time for beginning and ending the examination; to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees of the examination process; and to take all necessary and appropriate actions to secure the integrity of the examination process, including, without limitation, excusing an applicant from the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the appropriate representative of the testing service positive personal photograph and other identification in the form prescribed;

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the testing service; and

3. pay the site fee for the examination directly to the testing service at the time of registration with the testing service and in the amount and form prescribed by the testing service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:

§139. Subversion of Examination Process

A. - B. ...

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the testing service;

2. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:664 (July 1991), LR 26:

§141. Finding of Subversion

A. When, during the administration of examination, there exists reasonable cause to believe that an applicant-examinee is engaging, or attempting to engage, in subversion, action shall be taken as deemed necessary or appropriate to terminate such conduct and such conduct shall be reported to the board.

B. ...

C. When the board, has reasonable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant and provide him with an opportunity for hearing pursuant to the Administrative Procedure Act and applicable rules of the board governing administrative hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:663 (July 1991), LR 26:

§149. Lost, Stolen or Destroyed Examinations

The submission of an application for examination to the board by the applicant shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, committees, employees and agents, and the state of Louisiana to the applicant for the loss, theft or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores thereon by the examination service, other than by intentional act, shall be limited exclusively to the refund of the fees paid to the board for the examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:664 (July 1991), LR 26:

Subchapter G. Temporary Permit

§151. Temporary Permits in General

A. - B. ...

C. A holder of a temporary permit pending examination or reexamination, whether a domestic or foreign graduate, must schedule and sit for the licensure examination prior to the temporary permit expiration date. An extension of the temporary permit will not be issued beyond the expiration date without written proof of the examination having been taken by the applicant.

D. The board may issue a temporary permit for a limited time period to a physical therapist licensed in another state, or a foreign trained physical therapist credentialed in another country, to perform physical therapy services on a patient as part of an educational seminar or athletic event recognized and approved by the board. One or more temporary permits issued to the same person shall not exceed a total of 60 days in a calendar year. Such temporary permit holder shall be obligated to comply with the provisions of the Physical Therapy Practice Act of Louisiana and the board's rules regarding the practice of physical therapy in Louisiana. The temporary permit holder is obligated to obtain the temporary permit prior to his performing physical therapy services pursuant to this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 26:

§155. Permit Pending Reexamination

A. An applicant who possesses all of the qualifications for licensure prescribed by §107 of this Chapter, except for §107.A.5 and §107.B.5, who has once failed the licensing examination administered by the Board, and who has applied to the board within 10 days of receipt of written notice and completed all requirements for examination shall be issued a new temporary permit to be effective for 60 days.

B. - C.1 ...

2. failure of a permit holder to appear for and take the licensing examination within the 60-day permit period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:

Subchapter H. License and Permit Issuance,

Termination, Renewal and Reinstatement

§161. Issuance of License

A.-B ...

C. A licensee shall not copy or otherwise reproduce his license or allow another person to copy or otherwise reproduce his license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 26:

Subchapter I. Continuing Education

§169. Requirements

A. Minimum Continuing Education Requirements. Licensees shall document successful completion of 1.2 units, or 12 hours of acceptable continuing education credit during each annual period.

B. Criteria of Acceptability. Acceptable continuing education activities are defined as formally organized and planned instructional experiences of at least two hours duration per sitting; with a qualified instructor or instructors; and with objectives compatible with the professional continuing education needs of the physical therapist or physical therapist assistant. There are two types of approved courses: clinical and administrative. The entirety of the annual requirement may be comprised of approved clinical courses. A maximum of four hours of approved administrative courses will be allowed to be applied to the annual requirement.

1. Continuing Education Activities Specifically Acceptable for License Renewal. Prior board approval is recommended for all activities other than those specified under Subparagraphs a. and b. below. However, activities listed in category a. below must comply with the criteria of acceptability referenced in §169.B above. Continuing education activities which do not fit into categories in §169.B.1a. and b. below and have not been pre-approved by the board prior to participation may or may not be acceptable to the board as fulfilling continuing education requirements.

a. APTA (American Physical Therapy Association) accredited courses, LPTA (Louisiana Physical Therapy Association) accredited courses, APTA home study courses, or Louisiana State University Health Sciences Center, School of Physical Therapy, sponsored courses.

B.1.b. - B.3.e. ...

f. continuing education activities less than two consecutive hours in duration, or valued at less than 0.2 units of continuing education credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 26:

Subchapter J. Responsibilities

§177. Committees

The board may appoint committees to assist in the review of an applicant's qualifications for licensure; conduct an applicant's interview to deliver a temporary permit; review continuing education requirements and activities; and other purposes deemed necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 26:

§179. Board Meeting Attendance

Regularly scheduled meetings of the board are held once each month. Board members are required to attend a minimum of 80 percent of the regularly scheduled meetings, as well as special meetings, open forums or hearings which may be scheduled in conjunction with or separate from regularly scheduled meetings. Attendance constitutes active participation in at least 80 percent of the entire meeting. Exceptions may be granted for good cause by the board. Notification of an expected absence shall be submitted to the board office as soon as possible prior to the commencement of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 26:

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§305. Special Definition; Practice of Physical Therapy

A. ...

Physical Therapy Supportive Personnel

a. ...

b. *Physical Therapist Assistant*—a person licensed by the board who is a graduate of an associate degree program in physical therapist assisting accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or was granted licensure pursuant to R.S. 37:2403.D.

c. ...

Preventative Services—the use of physical therapy knowledge and skills to provide education or activities in a wellness setting for the purpose of injury prevention, reduction of stress and/or the promotion of fitness, but does not include the administration of physical therapy treatment and, therefore, can be performed without referral or prescription.

Topical Agents/Aerosols—topical medications or aerosols used in wound care which are obtained over the counter or by physician prescription or order.

Wound Care and Debridement—a physical therapist, physical therapist permittee or student physical therapist may perform wound debridement and wound management that includes, but is not limited to, sharps debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, and hydrotherapy. A physical therapist assistant, physical therapist assistant permittee or student physical therapist assistant shall not perform sharps debridement.

B. Minimal standards of acceptable and prevailing physical therapy practice shall include, but not be limited to, the American Physical Therapy Association Codes of Ethics, Guides for Professional Conduct and Standards of Practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 24:40 (January 1998), LR 26:

Subchapter B. Practice of Physical Therapy

§307. Prohibitions and Practice

A. - C. ...

D. A licensed physical therapist is authorized to engage in the practice of physical therapy as set forth in the Physical Therapy Practice Act and the board's rules which includes, but is not limited to, the performance of physical therapy evaluations, consultative services, wound care and debridement, the storage and administration of aerosol and topical agents, the performance of passive manipulation, and preventative services all as more fully defined in §305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:

Subchapter C. Supervised Practice

§317. General Supervision Requirements for Permittees

A. ...

B. A licensed physical therapist who undertakes to supervise a physical therapist or physical therapist assistant holding a temporary permit under §153 or §155 of these rules shall:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:38 (May 1989), LR 17:667 (July 1991), LR 24:41 (January 1998), LR 26:

§321. Supervision Requirements

A. - A.1. ...

a. be on premises daily in each practice setting for at least one half of the physical therapy treatment hours in which the physical therapist assistant is rendering physical therapy treatment;

A.1.b. - C.1. ...

2. A physical therapist aide/technician may assist a physical therapist assistant or a physical therapist assistant permittee in patient care as assigned by the physical therapist who must be continuously, on the premises during the provision of physical therapy services.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:

§323. Documentation Standards

A. - C. ...

D. Documentation by a student must be co-signed by the supervising physical therapist or supervising physical therapist assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:

Subchapter D. Disciplinary Proceedings

§331. Initiation of Complaints

Complaints may be initiated by any person or by the board on its own initiative. A licensee or temporary permittee is obligated to report violations of the Practice Act, board's rules or the American Physical Therapy Association's Codes of Ethics, Guides for Professional Conduct and Standards of Practice. Failure by a licensee or temporary permittee to report such violations to the board subjects the licensee or temporary permittee to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), LR 26:

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on May 25, 2000, at 10 a.m. at the office of the Board of Physical Therapy Examiners, 714 East Kaliste Saloom, Suite D2, Lafayette, LA 70508. Please contact the board office at (337) 262-1043 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed rules may be directed to this address and made to the attention of Becky Legé, Chairman. Such comments should be submitted no later than the close of business at 5 p.m. on Friday, May 19, 2000.

Becky Legé
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Unauthorized Practice; and Supervision**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an implementation cost to the state of \$200 for publication of the amendments to the rules. The cost involves reprinting of the rules to incorporate the new amendments which are being promulgated. The rules, as amended, will be provided to the board's licensees and other interested parties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board anticipates a minimal increase in revenue from continuing education course sponsors applying for approval of courses available for continuing education contact hours for physical therapists and physical therapists assistants. The increase in revenue for the course sponsors prior approval will be \$1,750 in FY 01, \$2625 in FY 02, and \$3500 in FY 03, due to the reduction from a four-hour to a two-hour minimum attendance period for CEU requirements. The board does not sponsor continuing education courses.

The board anticipates a minimal increase in revenue of \$150 per year for FY 01, FY 02, and FY 03 for applicants who

reapply after their initial application has been abandoned or closed after six months nonactivity.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The purpose and effect of the rules amendments set forth in Subchapter 1 regarding licensure are to clarify the existing application/examination process, as well as address miscellaneous administrative issues. With regard to the amendments to the rules in Subchapter 1, there are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups with the potential exception of the amendments to §305 and §307 regarding preventative services. Preventative services are authorized by the Physical Therapy Practice Act, but not sufficiently clarified in the law for regulatory purposes. Sections 305 and 307, as amended, clearly define and implement preventative services. The rules amendments regarding preventative services may have a minimal economic impact on the providers and recipients of such services; however, any slight impact will be outweighed by the benefit of and improvement to the quality of care to the recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition and employment is anticipated.

Becky Legé
Chairman
0004#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Family Planning Clinics—Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for family planning clinic services. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third-party coverage would pay. As a result of a budgetary shortfall, the Bureau determined that it was necessary to reduce the reimbursement rate for family planning services by 7 percent (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule

on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement to family planning clinics by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, May 26, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Family Planning Clinics— Reimbursement Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$1,542) for SFY 1999-00, (\$9,850) for SFY 2000-01, and (\$10,145) for SFY 2001-02. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$3,737) for SFY 1999-00, (\$23,516) for SFY 2000-01, and (\$24,222) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to Family Planning Clinics by seven percent. This proposed rule will reduce reimbursement by approximately (\$5,399) for SFY 1999-00, (\$33,366) for SFY 2000-01, and (\$34,367) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some clinics may find it necessary to reduce staff or staff hours of work.

David W. Hood
Secretary
0004#084

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Health Care Facility Sanctions (LAC 50:I.Chapter 55)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule as authorized by the Health Care Facilities and Services Licensing Enforcement Act, R.S. 40:2199, as enacted by the Legislature in 1997, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 1390 of the 1997 Regular Legislative Session established under R.S. 40:2199 the authority for the Department of Health and Hospitals to impose civil fines on those health care facilities determined to be out of compliance with any state or federal law or rule governing the operation and provision of health care services. It is anticipated that the imposition of civil fines will increase compliance with regulations and thereby improve the quality of health care provided to the citizens of this state. Sanctions specified in the proposed rule are applicable to the violation of any state or federal statute, regulation or Department of Health and Hospital's (Department) rule governing health care services; except nursing facility services. Sanctions for the violation of any state or federal statute, regulation, or department rule governing nursing facilities were previously promulgated.

In compliance with Act 1183 of the 1999 Regular Session, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 7. Sanctions

Chapter 55. Health Care Facility Sanctions

§5501. General Provisions

A. Any health care facility listed in Subsection B below found to be in violation of any state or federal statute, regulation, or any Department of Health and Hospitals (Department) rule adopted pursuant to the Administrative Procedure Act governing administration and operation of the facility may be sanctioned as provided in this Chapter.

B. For purposes of this rule, facility refers to any agency licensed by Department of Health and Hospitals as an adult day health care center, substance abuse/addiction treatment facility, ambulatory surgical center, case management agency, urine drug screening clinic, suppliers of portable x-ray services, home health agency, hospice, hospital, or intermediate care facility for the mentally retarded.

C. The opening or operation of a facility without a license or registration shall be a misdemeanor punishable upon conviction by a fine of not less than \$1,000, but not more than \$5,000 [for each offense]. Each day's violations shall constitute a separate offense. On learning of such a violation, the Department shall refer the facility to the appropriate authorities for prosecution.

D. Any facility found to have a violation that poses a threat to the health, safety, rights, or welfare of a patient or client may be liable for civil fines in addition to any criminal actions which may be brought under [any] other applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), amended LR 26:

§5503. Description of Violation and Applicable Civil Fines

A. "Class A" Violations

1. A "Class A" violation is a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and operation of a facility which results in death or serious harm to a patient or client. Examples of "Class A" violations include, but are not limited to:

a. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in the death of a patient or client;

b. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in serious harm to a patient or client.

2. Civil fines for "Class A" violations may not exceed \$2,500 for the first violation and may not exceed \$5,000 per day for repeat violations.

B. "Class B" Violations

1. A "Class B" violation is a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and operation of a facility is created which results in the substantial probability of death or serious harm to a patient or client if the condition or occurrence remains uncorrected. Examples of "Class B" violations include, but are not limited to:

a. medications or treatments improperly administered or withheld;

b. lack of functioning equipment necessary to care for a patient or client;

c. failure to maintain emergency equipment in working order;

d. failure to employ a sufficient number of adequately trained staff to care for residents or clients; and

e. failure to implement adequate infection control measures.

2. Civil fines for "Class B" violations may not exceed \$1,500 for the first violation and may not exceed \$3,000 per day for repeat violations.

C. "Class C" Violations

1. A "Class C" violation is a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and operation of a facility that creates a potential for harm by directly threatening the health, safety, rights or welfare of a patient or client, including potential for harm created through exploitation. Examples of "Class C" violations include, but are not limited to:

a. failure to perform treatments as ordered by the physician, including the administration of medications;

b. improper storage of poisonous substances;

c. failure to notify physician and family of changes in condition of a patient or client;

d. failure to maintain equipment in working order;

e. inadequate supply of needed equipment;

f. lack of adequately trained staff necessary to meet a patient or client's needs;

g. failure to adhere to professional standards in giving care to a patient or client; and

h. failure to protect patients or clients from personal exploitation, including, but not limited to, sexual conduct involving facility staff and a patient or client.

2. Civil fine for "Class C" violations may not exceed \$1,000 for the first violation and may not exceed \$2,000 per day for repeat violations.

D. "Class D" Violations

1. "Class D" violations are violations of rules or regulations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a patient or client. Examples of "Class D" violations include, but are not limited to:

a. failure to submit written report of accidents;

b. failure to timely submit a Plan of Correction;

c. falsification of a record; and

d. failure to maintain a patient's or client's financial records as required by rules and regulations.

2. Civil fines for "Class D" violations may not exceed \$100 for the first violation and may not exceed \$250 per day for repeat violations.

E. "Class E" Violations

1. "Class E" violations occur when a facility fails to submit a statistical or financial report in a timely manner as required by rule or regulation.

2. Civil fines for "Class E" violations may not exceed \$50 for the first offense and may not exceed \$100 per day for repeat violations.

F. Determination of Amount of Civil Fine

1. In establishing the amount of civil fines to be imposed against the provider, the Department will consider:

a. all relevant aggravating circumstances, including, but not limited to:

i. whether the violation resulted from intentional or reckless conduct by the provider;

ii. the pervasiveness of the violation;

iii. the duration of the violation; and

iv. the extent of actual or potential harm to patients or clients.

b. all relevant mitigating circumstances, including, but not limited to:

i. whether the provider had taken steps to prevent the violation and

ii. whether the provider had implemented an effective corporate compliance program prior to the violation.

c. When the provider had an effective compliance program in place at the time of the violation, the assessed fine will not exceed 50 percent of the maximum potential fine.

2. The aggregate fines assessed for violations identified in any one calendar month may not exceed \$10,000 for "Class A" and "Class B" violations. The aggregate fines assessed for "Class C", "Class D", and

"Class E" violations identified in any one calendar month may not exceed \$5,000.

G. The Department shall have the authority to determine whether a violation is a repeat violation and to sanction the provider accordingly. A violation is considered a repeat violation if either:

1. the existence of the violation is established as of a particular date and it is one that may be reasonably expected to continue until corrective action is taken. The Department may elect to treat the cited continuing violation as a repeat violation subject to appropriate fines for each day following the date on which the initial violation is established until such time as there is evidence that the violation has been corrected; or

2. the existence of a violation is established and another violation that is the same or substantially similar to the cited violation occurs within 18 months. The second and all similar violations occurring within an 18-month time period will be considered repeat violations and sanctioned accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), amended LR 26:

§5505. Notice and Appeal Procedure

A. Notice Requirements. When the Department imposes a civil fine on a health care provider, it shall give the provider written notice of the imposition. The notice shall be delivered by certified mail and shall contain the following information:

1. the nature of the violation(s) and whether the violation(s) is classified as an initial or repeat violation;

2. the legal authority for the violation(s);

3. the civil fine assessed for each violation;

4. information that the facility has ten working days from receipt of the notice within which to request an informal reconsideration of the proposed civil fine;

5. information that the facility has 30 working days from receipt of the notice within which to request an administrative appeal of the proposed civil fine. The request for an informal reconsideration does not constitute a request for an administrative appeal, nor does it extend the time limit for requesting an administrative appeal; and

6. information that the Department's decision becomes final and no administrative or judicial review may be obtained if the facility fails to timely request an informal reconsideration and/or administrative .

B. Informal Reconsideration. The provider may request an informal reconsideration of the Department decision to impose a civil fine.

1. The request must be in writing and received by the Department within ten working days of the provider's receipt of the notice of the imposition of the fine.

2. The reconsideration shall be conducted by designated employees of the Department who did not participate in the initial decision to recommend imposition of the civil fine.

3. The reconsideration decision shall be based upon all documents and oral testimony furnished by the provider

to the Department at the time of the informal reconsideration.

4. Correction of the violation cited for imposition of the civil fine shall not be the basis for a reconsideration.

5. The designated employee(s) shall only have the authority to confirm, reduce or rescind the civil fine.

6. The Department shall notify the provider of the reconsideration decision within ten working days after the reconsideration is conducted.

C. Administrative Appeal. The provider may request an administrative appeal of the Department's decision to impose a civil fine.

1. If a timely request for an administrative appeal is received, the hearing shall be conducted as provided in the Administrative Procedure Act, R.S. 49:950 et seq.

2. An appeal bond shall be posted with the Bureau of Appeals as provided in R.S. 40:2199(D) or the provider may choose to file a devolutive appeal [pay the fine, pending the outcome of all appeals].

3. The provider may request judicial review of the administrative appeal decision as provided in the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), amended LR 26:

§5507. Collection of Fines

A. The decision to impose a fine is final when:

1. an administrative appeal is not requested within the specified time limit;

2. the facility admits to the violations and agrees to pay the fine; or

3. the administrative appeal affirms the Department finding of violations and the time for seeking judicial review has expired.

B. When Payment of Civil Fines is Final

1. Payment shall be made in full within ten working days of the date the fine becomes final, unless the Department allows a payment schedule in light of documented financial hardship.

2. Arrangements for a payment schedule must commence within ten calendar days of the fine becoming final.

3. Interest shall begin to accrue at the current judicial rate beginning ten working days after the fine becomes due.

C. Failure to make Payment of Assessed Fines. When the assessed fine is not received within the prescribed time period, the Department shall take the following action:

1. For a Medicaid provider, the full amount with accrued interest shall be deducted from funds otherwise due to the provider as Medicaid reimbursement payment due, whether monthly or quarterly.

2. If the provider is non-Medicaid, civil actions shall be instituted as necessary to collect the fines due.

D. Consideration as an Allowable Cost or Charge to Patient/Client

No provider may claim imposed fines or interest as reimbursable costs to Medicaid or Medicare, nor increase

charges to residents, clients or patients as a result of such fines or interest.

E. Disposition of Civil Fines

Civil fines collected shall be deposited in the Health Care Facility Fund maintained by the State Treasury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), amended LR 26:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, May 26, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Health Care Facility Sanctions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that \$320(\$160 SGF and \$160 FED) will be expended in SFY 2000-2001 for the state's administrative cost of promulgating this proposed rule and the final rule. No additional costs are anticipated for SFY 2001-02 and SFY 2002-03.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state revenue collections resulting from impositions of civil fines on health care facilities determined to be out of compliance. The amount of this projected increase is not known since there is little historical data from which to draw. Between \$10,000 and \$30,000 per fiscal year might be collected, depending on the compliance rate. In addition, \$160 is projected to be collected in SFY 2000-2001 for the federal share of the cost of promulgating this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Health care facilities determined to be out of compliance with federal or state law, or any rule governing the operation and provision of health care services will have a civil fine imposed on them. The amount of revenue health care facilities will lose as a result of the imposition of civil fines for non-compliance is not known.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule will not effect competition and employment.

David W. Hood
Secretary
0004#089

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Minimum Standards/Requirements for Substance Abuse/Addiction Treatment Facilities/Programs (LAC 48:I.Chapter 74)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the following rules governing the requirements for licensing Substance Abuse/Addiction Treatment Facilities/Programs as authorized by R.S. 40:1058.1 - 1058.9 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 1000 of the 1997 Regular Session of the Legislature authorized the Department of Health and Hospitals to promulgate rules in accordance with R.S. 40:1058.2. These written rules are the Minimum Licensure Standards for Substance Abuse/ Addiction Treatment Facilities. Any facility that presents itself to the public as a provider of services related to the abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem and compulsive gambling, or a combination of the above is required to have a valid and current license prior to admitting any client. Therefore, the Bureau proposes to adopt the following licensure standards for all substance abuse/addiction treatment facilities/programs in the state.

Any existing licensed facility shall continue to operate abiding by the last amended rules (published in the *Louisiana Register*, Volume12, January 1986) for up to one year from adoption of this final rule. Any facility issued an initial new license will be required to comply with all the following licensure standards upon finalization of this proposed rule. Effective one full year from the adoption of this rule, the provisions of this rule shall govern all facilities, regardless of the date of issuance of license.

This proposed rule shall supersede all previous manuals pertaining to this subject, including the standards manual which comprises the Minimum Standards for Licensing Alcoholism and Drug Abuse/Substance Abuse Programs in its entirety as published in January 1977 and January 1986.

In compliance with Act 1183 of the 1999 Regular Session, the impact of this proposed rule on the family has been considered. It is anticipated that this proposed rule will have no impact on the stability and functioning of the family.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 74. Minimum Standards/Requirements for
Abuse/Addiction Treatment
Facilities/Programs
Subchapter A. General Provisions

§7401. Definitions and Acronyms

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly states otherwise.

AADD—abuse/addiction disease/disorder.

Abuse—any act or failure to act that caused or may have caused injury to a client knowingly, recklessly, or intentionally, including incitement to act. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement.

Adequate/Sufficient—reasonable, enough, e.g., personnel to meet the needs of the clients currently enrolled in a specific program.

Adolescent—an individual between the ages of 13 and 17 inclusive who has not been emancipated by marriage or judicial decree. Incarcerated adolescents will be in accordance with incarceration guidelines.

Advertise—to solicit or induce to purchase the services provided by a treatment facility.

Adult—an individual 18 years of age or older, or an individual under the age of 18 who has been emancipated by marriage or judicial decree. Persons aged 16 and above may voluntarily seek and receive substance abuse services without parental consent.

"At Risk"—identification by the Office for Addictive Disorders (OAD) of greater potential for the use/abuse of alcohol and other drugs.

ATOD—alcohol, tobacco, and other drugs.

Board(s)—entities responsible for licensure/certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.). State of Louisiana boards are the only accepted credentialing organizations for all personnel.

Client/Patient/Consumer/Participant—any person assigned or accepted for prevention or treatment services furnished by a licensed facility as specified.

Compulsive Gambling—persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and is so designated by a court, or diagnosed by a licensed physician, licensed social worker, licensed psychologist, or advanced practice registered nurse who is certified in mental health.

Consultation—professional oversight, advice, or services provided under contract.

Core Functions—the essential and necessary elements required of every abuse/addiction treatment facility.

a. *Assessment*—core function in which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan.

b. *Case Management*—core function in which services, agencies, resources, or people are brought together within a planned framework of action toward the achievement of established goals. It may involve liaison

activities and collateral contacts with other providers/facilities.

c. *Client Education*—core function in which information is provided to individuals and groups concerning alcoholism and other drug abuse, positive lifestyle changes, and the available services and resources.

d. *Client Orientation*—core function in which the client is informed regarding:

i. general nature and goals of the program;

ii. rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;

iii. availability of services;

iv. costs; and

v. client's rights.

e. *Consultation with Professionals*—core function in which functional relationship with counselors and other credentialed health care professionals is provided as required to assure comprehensive quality care for the client.

f. *Counseling (Individual/Group) Services*—core function in which appropriate support is provided to the client by those professionals qualified to provide therapeutic services. Special skills are used to assist individuals, families, or groups in achieving objectives through:

i. exploration of a problem and its ramifications;

ii. examination of attitudes and feelings;

iii. consideration of alternative solutions; and

iv. decision making and problem solving.

g. *Crisis Intervention Services*—core function in which appropriate assistance is rendered during emergencies, including 24-hour telephone coverage by a qualified counselor, to provide:

i. telephone assistance to prevent relapse;

ii. referral to other services; and

iii. support during related crises.

h. *Intake*—core function in which information is gathered about a prospective client. Information is given to a prospective client about the treatment facility and facility's treatment and services.

i. *Referral*—core function in which appropriate services not provided by the facility are identified, and client/family is assisted to optimally utilize the available support systems and community resources.

j. *Reports and Record Keeping*—core functions in which results of the assessment and treatment planning are recorded. Written reports, progress notes, client data, discharge summaries and other client-related documentation is recorded in the client record.

k. *Screening*—core function in which the determination is made as to whether a client meets the program's admission criteria. Information such as the person's reason for admission, medical and substance abuse history, and other needed information, is used to determine client's need for treatment, and/or appropriateness of admission.

l. *Treatment Planning*—core function in which the counselor and the client:

i. identify and rank problems needing resolution;

ii. establish agreed upon immediate objectives and long-term goals; and

iii. decide on a treatment process, frequency, and the resources to be utilized.

Core Requirements—as contained in this Chapter apply to all facilities licensed to provide substance abuse prevention, treatment, or detoxification. Sections 7401 - 7425 contain core requirements for all facilities and §7427 - §7457 contain additional requirements that apply to specific programs.

Counselor—qualified professional (QPS or QPC) as described in this document.

Counselor in Training (CIT)—a person currently registered with Louisiana State Board Certified Substance Abuse Counselor (LSBCSAC) Board and pursuing a course of training in substance abuse counseling including educational hours, practicum hours, and direct, on-site supervision of work experience hours by a facility-employed QPS/QPC.

Department—the Louisiana Department of Health and Hospitals (DHH). The following is a list of pertinent sections:

a. Health Standards Section (HSS)—Section of Bureau of Health Services Financing, DHH that surveys, licenses, and serves as the regulatory body for health care facilities in the state.

b. Office for Addictive Disorders (OAD)—DHH office responsible for providing treatment and prevention services related to abuse/addiction disease/disorders.

c. Office of Public Health (OPH)—DHH Office that establishes and enforces various legislative health codes.

d. Office of Planning and Review (OPR)—DHH office which professionally reviews all floor plans and site plans prior to licensing to assure compliance with state laws and codes.

e. Program Integrity Section (PRS)—Section of Bureau of Health Services Financing, DHH responsible for investigating fraud and abuse.

Diagnosis—the act of identifying a disease (AA/DD) by a qualified licensed professional (physician, social worker, advanced practice registered nurse, or psychologist) based on comprehensive assessment of physical evidence [if related to diagnosis], signs and symptoms, clinical and psychosocial evidence, and client/family history.

Doctorate-Prepared—an individual who has completed a Doctorate in social work, psychology, or counseling, but has not met the requirements for licensing by the appropriate state board.

Exploitation—act or process to use (either directly or indirectly) the labor or resources of a client for monetary or personal benefit, profit, or gain of another individual or organization.

Facility—provider of services, including all employees, consultants, managers, owners, and volunteers as well as premises and activities.

Joint Ventures—facilities funded/operated by both public and private sources. Joint ventures are classified as private entities.

LSBCSAC—Louisiana State Board Certified Substance Abuse Counselor.

Masters-Prepared—an individual who has completed a Masters Degree in social work or counseling, but has not met the requirements for licensing by the appropriate state board.

Medication Administration—preparation and giving of legally prescribed individual dose to client; observation and monitoring of client/client response to medication.

Medication Dispensing—compounding, packaging, and/or giving of legally prescribed multiple doses to client.

Medication-Prescription (Legend)—medication that requires an order from a licensed practitioner and that can only be dispensed by a pharmacist on the order of a licensed practitioner and requires labeling in accordance with R.S. 37:1161 et seq.

Medication—Nonprescription—medication which can be purchased over-the-counter without a licensed practitioner's order.

Minor—any person under the age of 18.

Office of State Fire Marshal (OSFM)—establishes and enforces various legislative building codes.

Off-Site Operation—either autonomous or semi-autonomous, that is related to parent facility and located in same or adjacent parish.

On Call—immediately available for telephone consultation and less than one hour from ability to be on duty.

On Duty—scheduled, present, and awake at the site to perform job duties.

Primary Prevention—focus on reducing the onset of incidences (rate of occurrences) of alcohol, tobacco, and other drug (ATOD) use by non-users, preventing the development of ATOD use problems, and enhancing individual strengths as an inoculant against ATOD use.

Program—a specific group of therapeutic services designed to deliver treatment/prevention to a defined client population.

Public—owned and operated by federal, state, or local government.

Sexual Exploitation—a pattern, practice, or scheme of conduct that can reasonably be construed as being for the purpose of sexual arousal or gratification or sexual abuse of any person.

Site/Premises—a single identifiable geographical location owned, leased, or controlled by a facility where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walk-ways and not separated by public street or have different geographical addresses.

Staff—individuals who provide services for the facility in exchange for money or other compensation, including employees, contract providers, and consultants.

Standards—policies, procedures, rules, and other guidelines (i.e., standards of current practice) contained in this Chapter for the licensing and operation of substance abuse/addiction treatment facilities.

Substance Abuse/Addiction Treatment/Prevention Facility—any facility which presents itself to the public as a provider of services related to prevention and/or treatment of the abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above. Facility shall be licensed to provide treatment to clients diagnosed with abuse/addiction disease/disorders (AADD) and provide support and prevention intervention to families, the public,

and to those individuals identified as having greater than normal risk for developing abuse/addiction disease/disorders.

Supervision—occupational oversight, responsibility and control over employee(s)/service delivery by critically watching, monitoring, and providing direction.

Treatment Level—a group of treatments/services designed to positively impact a specific type/degree of abuse/addiction.

Unethical Conduct—conduct prohibited by the ethical standards adopted by DHH, state or national professional organizations or by a state licensing agency.

Unprofessional Conduct—any act or omission that violates commonly accepted standards of behavior for individuals or organizations.

Variance or Waiver—administrative decision by HSS or DHH secretary or designated personnel qualified to make the decision that failure (for limited time period), to meet a Minimum Standard cannot potentially cause harm to any client/citizen or interfere with quality treatment. Facility shall post all variances/waivers in conspicuous place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7403. Licensing

A. General. Any facility which presents itself to the public as a provider of services related to the prevention and/or treatment for abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above is required to have a valid and current license prior to admitting any client.

B. Compliance. Each licensed facility must comply with the minimum requirements in order to remain licensed. In addition, each facility is required to have a copy of the minimum standards on-site, and all administrative and professional staff should be familiar with contents of this rule.

C. Exemptions

1. Hospitals, nursing homes, and federally-owned facilities are exempt from licensure.

2. State facilities are exempt from the following general requirements:

- a. licensure fees;
- b. budgetary/audit requirements;
- c. disclosure of ownership forms;
- d. planning, location requirements;
- e. governing body regulations; and
- f. liability insurance.

D. Adherence Requirements. Each facility shall adhere to requirements throughout the period of licensure. Any period of non-compliance may result in sanctions, denials, or corrective action.

E. Variance. Any variance granted by HSS shall:

1. be in writing;

2. cannot be retroactive;
3. be granted for a specific period of time, but less than one year; and
4. be listed on the facility license.

F. Off-sites. Related facilities may share a name with the primary facility, if a geographic indicator is added to the end of the facility name. All facilities must have a separate license from that issued to the parent facility.

1. Additional locations shall operate in the same or adjacent parish and shall meet the following conditions:

- a. OSFM/OPH approval;
- b. adequate professional staff to comply with all standards;
- c. adequate administrative and support staff to comply with all standards;
- d. personnel records may be housed at parent facility;
- e. client records may be housed at parent facility;
- f. telephone system to forward calls to parent facility;
- g. initial survey is required prior to opening, but annual/renewal survey may be by attestation;

2. License to operate at off-site location will be issued from HSS when the following criteria are met:

- a. adequate professional staff to operate at two or more locations;
- b. identified need for services by OAD; and
- c. submission of request for opening off-site and completed application and payment of applicable fees.

3. Treatment services shall be equal at all locations, however, off-site facilities may refer clients to parent facility to supplement core functions only when client is not expected to endure excessive expense or hardship to obtain required services.

4. Twenty-four hour off-site facilities shall meet and maintain compliance with all requirements for which the facility license is issued.

5. Exception: Primary Prevention Programs may provide educational services at various public facilities, provided that the primary site is licensed.

G. License Designation. A facility shall have written notification of restrictions, limitations, and services available to the public, community, clients, and visitors.

1. Twenty-Four-Hour Facilities. (May be designated for adults, adolescent, or parents/dependent children.)

- a. Detoxification Facilities
 - i. Medically Supported
 - ii. Non-medical (Social)
- b. Primary Treatment Facilities
 - i. In-patient Treatment
 - ii. Residential Treatment
- c. Community-Based Treatment Facilities
 - i. Halfway House
 - ii. Three Quarter House
 - iii. Therapeutic Community (Long Term Residential)

2. Outpatient Facilities

- a. Outpatient Counseling
- b. Intensive Outpatient Treatment
- c. Opiate Addiction Treatment

3. Primary Prevention Programs (Non-treatment Designation)

- a. Youth Based Programs
- b. Community Education Only

4. Additional Designations (Conjointly approved by OAD/HSS in writing)

H. Services. The services shall be provided in accordance with license designation.

1. Any additional services provided on the premises shall be identifiable to the public as separate and apart from the licensed program.

2. Clients/families must be notified in writing upon admission when client will be housed in any building not covered in the license issued by DHH/HSS.

I. License Types.

1. Full. A full license is issued only to those agencies that are in compliance with the minimum standards and all other licensure requirements. The license is valid until the date of expiration unless revoked or suspended prior to the date of expiration, or denied renewal.

2. Provisional. A provisional license is issued to those facilities that are not in compliance with the minimum standards when the termination of a license will occur if systemic changes fail to correct identified problems, provided that cited deficiencies are not detrimental to the health and safety of clients. A provisional license is valid for six months or until a designated termination date. Any license involved in an appeal process is automatically considered provisional.

J. Display of License. The current license shall be displayed on-site at each facility in full view of all clients and/or visitors. Any license issued by DHH supersedes previously issued licenses issued for the facility to operate under this chapter and deems those previously issued as invalid. Any facility displaying and/or using an invalid or altered license will be sanctioned.

K. Notification of Change Requirements. Any change listed below that is not reported in writing to HSS within 10 days is delinquent and subject to sanction. Written approval of changes by DHH is required to remain in compliance with licensure standards.

1. Change of Ownership

a. Include a copy of bill of sale, licensure fee, disclosure of ownership form, new application form, and information about relocation, name change, etc.

b. License is nontransferable; new owners must apply for a new license.

2. New Construction and Renovations. All plans must have prior approval of the Office for State Fire Marshal and DHH Office of Planning and Review.

3. Address Change. Change of address requires issuance of replacement license. Prior approval is required, and is based on submitting requested information to HSS.

4. Change of Services. An application packet appropriate to the new service is required. An initial survey may be required prior to issuance of new license at the discretion of HSS.

5. Hours of Operation. Written approval by HSS is required in advance of the change.

L. Cessation of Business. If at any time the facility decides to cease operations then the facility is responsible for surrendering the license and notifying HSS of the date of cessation of services and the permanent location of the records.

1. All active clients and pertinent information shall be transferred/referred to appropriate treatment facilities.

2. Written notification with license shall be sent to HSS within five working days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7405. Fees

A. General. All fees must be submitted to DHH in the form of a company or certified check or money order, and is to be made payable to the Department of Health and Hospitals (DHH). All fees are nonrefundable and nontransferable.

1. Fee Amounts. The current fee schedule is available upon request.

2. Initial Application. The fee for the initial application process and initial licensure shall be submitted prior to consideration of the license application.

3. Annual Renewal. The fee is payable in advance of issuance of a renewal license.

4. Change Fees. A fee must accompany any request requiring the issuance of a replacement license.

B. Late Fees. Any fee for renewal, or any other fee, is delinquent after the due date and an additional fee shall be assessed beginning on the day after the date due. No license will be issued until all applicable fees are paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7407. Initial Licensure

A. Application Procedure. This process assures that the facility is capable of organizing, planning and carrying out an operation to provide the 12 core functions of counseling and other therapeutic services as designated on license. The entire application process must be completed within 90 days from the date of the original submission of the application in order to be approved. A completed application packet shall contain:

1. letter of intent that includes:

- a. proposed date of operation;
- b. program mission;
- c. program description;

2. written Plan of Professional Services including a list of the 12 core functions of AA/DD treatment and a facility plan to furnish those services.

3. current application, disclosure forms and other forms with application fee.

4. written approval from the Office of Planning and Review for the proposed facility, if required.
5. a letter-size sketch of the floor plan.
6. jurisdictional approvals as required by:
 - a. Office of Public Health;
 - b. Office of State Fire Marshal;
 - c. municipal zoning and other approvals as applicable;
 - d. others, if necessary, (e.g., State Methadone Authority);
7. proof of general and professional liability insurance of at least \$500,000.
8. governing body information including names, addresses, telephone numbers of each member;
9. disclosure in writing of any financial and/or familial relationship with any other entity receiving third-party payor funds, or any entity which has previously been licensed in Louisiana;
10. organizational chart for all professional level personnel.

B. Exceptions. If a requirement is not applicable to the program being licensed, the applicant may list and mark "not applicable." HSS can assist by telephone, if additional answers are needed.

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HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7409. Survey

A. General

1. All surveys shall be unannounced and may be in conjunction with other agency personnel and/or personnel from other local, state or federal agencies.
2. Any facility that cannot be surveyed when scheduled will be sanctioned unless prior arrangements are approved by HSS and will not be licensed until all fines are paid.

B. Initial

1. On-site survey of all aspects of the operation is required prior to the admission of any client for treatment at the facility.
2. DHH shall determine whether the facility is capable of becoming operational as indicated by compliance with all accepted standards of completed preparations and employment of all personnel, as well as securing all jurisdictional approvals.
3. Facility must become fully prepared for survey within six months of completion of application process.
4. Facility shall be staffed to admit clients and all personnel shall have received orientation.
5. Facility shall be fully prepared to begin admitting clients before requesting an on-site survey.
6. Facility shall meet all requirements of the Minimum Standards.

- a. If survey findings indicate that facility has minor violations, a corrective plan of action shall be submitted before issuance of a license.
- b. All client oriented corrections shall be completed before DHH issues a license.

c. All unlicensed direct care workers must have criminal history checks with appropriate action taken prior to initial survey.

7. Any facility that is not recommended for licensure following the on-site survey shall be required to submit another application fee and application packet for review prior to requesting a subsequent on-site survey.

8. No client may be admitted until the survey has been completed and facility has been notified that it is approved to admit clients. Health Standards surveyor shall notify the facility verbally as to whether it is appropriate to begin admitting clients or to await further direction by DHH.

C. Annual Survey. An on-site survey of all aspects of the facility is performed annually to assure and promote continuous adherence to standards.

D. Complaint Investigations. DHH shall determine the type and extent of investigation to be made in response to complaints in accordance with R.S. 40: 2009.13 et seq.

1. May be an internal investigation with a report submitted to DHH/HSS.

2. May be on-site focused or complete survey by DHH/OAD and/or DHH/HSS and other local, federal, and state agencies as appropriate.

E. Follow-up Surveys. On-site visit, or request for submission of documentation for desk review to assure that corrective actions have been completed as alleged in the submitted plan of corrections and/or to assure continued compliance between surveys.

F. Survey Results. All survey results become available for public inspection 60 days after the survey or on the date that an acceptable plan of correction is received from the facility, whichever is sooner. If violations of Minimum Standards are:

1. minor and do not directly involve client care, the facility may be allowed up to 60 days to make all necessary corrections;
2. not minor or if they directly affect client care, adverse action shall be implemented.

G. Plan of Corrections. Written allegations of correction are submitted from facility to HSS to describe actions taken by the facility in response to cited violations.

1. Required Components/Elements

- a. Actions taken to correct any problems caused by deficient practice directed to a specific client.
- b. Actions taken to identify other clients who may also have been affected by deficient practice, and to assure that corrective action will have positive impact for all clients.
- c. Systemic changes made to insure that deficient practice will not recur.
- d. Quality assurance plan developed to monitor to prevent recurrence.

2. Miscellaneous

- a. All components of the corrective action plan must be specific and realistic, including the dates of completion.

b. Plan must be submitted as directed by HSS staff, usually within 10 days of the date of the survey, or the provider may be sanctioned.

c. Corrections must be completed within 60 days of survey unless directed to correct in less time due to danger or potential danger to clients/staff.

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§7411. Annual License Renewal

A. License must be renewed at least annually. It is the responsibility of the facility to:

1. request a renewal packet from HSS if one is not received at least 45 days prior to license expiration;
2. complete all forms and return to HSS at least 30 days prior to license expiration;
3. submit annual licensure fee, if required, with renewal packet; and
4. submit proof of insurance with renewal packet.

B. Annual license renewal for Primary Prevention programs may be accomplished by attestation provided that:

1. the facility has had three consecutive years of deficiency-free surveys, and
2. Office for Addictive Disorders recommends attestation in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7413. Adverse Actions

A. General. DHH reserves the right to suspend, deny (initial or renewal), or revoke any license at the discretion of the secretary or his/her designee. Facility owners and staff shall be referred to other entities, such as boards or state or federal enforcement agencies, when there is suspicion of illegal, unprofessional or unethical behavior. Any involuntary termination of licensure or voluntary termination to avoid adverse action automatically disqualifies that facility and those associated with the facility from applying for licensure for a period of at least one year.

B. Denial of Initial License. Denial of initial licensure shall be in accordance with R.S. 40:1058.5(A). Additionally, DHH shall not accept application for an additional facility with common owners, managers, or staff unless the original facility is in full compliance for one year without interruption and is not under investigation by any other agency.

C. Revocation or Denial of Renewal of License. License may be revoked or denied for the following nonexclusive reasons: [See also R.S. 40:1058.5(B)]

1. cruelty or indifference to the welfare of the clients;
2. misappropriation or conversion of the property of the clients;

3. violation of any provision of this part or of the minimum standards, rules, and regulations, or orders promulgated hereunder:

a. serving more clients in the facility than authorized by license;

b. repeated failure to adhere to rules and regulations that resulted in issuance of a provisional license or other sanction;

c. serious violation of standards or current professional standards of practice;

d. failure to submit corrective action plans for identified violations;

e. reasonable cause to suspect that client health/safety is jeopardized;

f. reliable evidence that the facility:

i. falsified records;

ii. failed to provide optimum therapy in accordance with current standards of practice; or

iii. has bribed, solicited or harassed any person to use the services of any particular facility;

g. failure to submit required fees in a timely manner;

h. failure to cooperate with survey/investigation by DHH/authorized agencies;

i. failure to employ and utilize qualified professionals;

4. permitting, aiding, or abetting the unlawful, illicit, or unauthorized use of drugs or alcohol within the facility;

5. conviction or plea of *nolle contendere* by the applicant for a felony. If the applicant is an agency, the head of that agency must be free of such conviction. If a subordinate employee is convicted of a felony, the matter must be handled administratively to the satisfaction of HSS.

6. documented information of past or present conduct or practices of the facility which are detrimental to the welfare of the clients.

D. Provisional License. As described in § 7403.

E. Appeals.

1. Notice. HHS shall give at least 30 days notice of denial of renewal or revocation of license unless DHH determines that the health and/or safety of clients is in jeopardy. In the event that DHH determines that the health and/or safety of clients is in jeopardy, clients will be removed from the facility immediately. No advance notice will be provided when health and/or safety are involved, and the facility may appeal within 30 days following the removal.

2. Administrative Reconsideration. Request must be submitted in writing to HSS (designee of DHH secretary) within 15 days of receipt of the notice of denial of renewal or revocation.

3. Administrative Appeal. Request must be submitted in writing to DHH, Office of the Secretary within 30 days of receipt of the notice of denial of renewal or revocation.

Request for administrative reconsideration does not affect time frames for requesting administrative appeal.

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Subchapter B. Core Requirements for All Programs
§7417. Organization and Administration

A. Administration Quality and Adequacy

1. Facility administration shall be qualified and adequate to assure adherence to all licensing standards.

2. Qualifications shall be determined by the complexity of the services being provided.

3. Facility compliance with licensing standards shall determine adequacy of available administrative oversight.

4. Facilities shall be organized so that administrative personnel do not perform any programmatic duties and/or make clinical decisions, unless licensed/certified to make clinical decisions.

B. Administrative Records. Record keeping shall be in accordance with accepted standards to assure the development and implementation of facility specific policies and procedures to adhere to all licensing standards.

1. Personnel (staff providing direct care to clients)

a. Annual health screens in accordance with OPH guidelines (includes Dietary workers when applicable).

b. Actual hours of work

c. Orientation/training/in-services

d. Disciplinary actions

e. Results of criminal background checks on all direct care staff

f. Verification of professional credentials, licensure/certification and renewals

g. Job descriptions/Performance expectations

2. Administrative Operations

a. Organizational chart

b. Mission and description of services

c. Payment methods in accordance with Wage and Hour Board

d. Proof of general and professional liability insurance in the amount of at least \$500,000

e. Projected plan of operations based on the findings of the facility specific to continuous improvement program

f. Written agreements with other entities to assure adherence to licensing standards and continuity of care

g. Written designation of facility administrator and clinical services director. Facility may have other job titles as desired, however, the above two positions are required for each facility.

3. Governing Body. All private providers shall have an identifiable governing body composed of adults who have legal authority over the policies and activities of the facility. Responsibilities include:

a. governing of all facility operations;

b. documentation to identify all members including name, address, telephone numbers with current updates as indicated;

c. maintenance of written minutes of all meetings of the governing body, including, but not limited to, date, time, location, participants, topics discussed, decisions reached, and actions taken, committee reports, and any other pertinent information;

d. annual documented review and appropriate actions on all policies, procedures, facility rules, goals, grievances, budget, internal and external evaluations, (including all survey findings);

e. codes of conduct to ensure professional, ethical and legal operations;

f. facility practices that ensure employees have necessary administrative support to provide therapeutic milieu for clients.

C. Ownership. Type of ownership must be identified.

1. Public—government entities (local, state, and federal)

2. Private—for profit or nonprofit

a. individual

b. corporation (individual, group of individuals, or publicly-owned stock)

c. church

d. council/organization

e. joint ventures/contractors

D. Facility Protocols. Each facility shall establish facility-specific, written policy and implement such policy in these areas.

1. General

a. Procedures to ensure the health, safety, and well-being of clients.

b. Procedures to ensure that clients receive optimum treatment in order to achieve recovery.

c. Criteria to assure access to care without over-utilization of services.

d. Protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.

e. Procedures to assure operational capability and compliance.

f. Procedures to assure that only qualified personnel are providing care within the scope of the core functions of substance abuse treatment.

g. Procedures to assure that delivery of services shall be cost-effective and in conformity with current standards of practice.

h. Procedures to assure confidentiality of client records.

2. Continuous Quality Improvement Program (CQIP). Facility shall:

a. have ongoing programs to assure that the overall function of the clinic is in compliance with federal, state, and local laws, and is meeting the needs of the citizens of the area, as well as attaining the goals and objectives developed from the mission statement established by the facility;

b. focus on improving patient outcomes and patient satisfaction;

c. have objective measures to allow tracking of performance over time to ensure that improvements are sustained;

d. develop/adopt quality indicators that are predictive of desired outcomes or are outcomes that can be measured, analyzed and tracked;

e. identify its own measure of performance for the activities it identifies as priorities in quality assessment and performance improvement strategy;

f. conduct distinct successful improvement activities proportionately to the scope and complexity of the clinic operations;

g. immediately correct problems that are identified through its quality assessment and improvement program that actually or potentially affect the health and safety of the clients;

h. make an aggressive and continuous effort to improve overall performance of clinic and personnel;

i. use the process of improvement (identification of client care and service components; application of performance measures; and continuous use of a method of data collection and evaluation) to identify or trigger further opportunities for improvement; and

j. use annual internal evaluation procedure to collect necessary data to formulate plan and quarterly meetings of staff committee (at least three individuals) to assess and choose which CQIP activities are necessary and set goals for the quarter, to evaluate the activities of the previous quarter, and to implement immediately any changes that would protect the clients from potential harm or injury.

3. Research or Non-traditional Treatment Modalities. Approval for exceptional procedures, treatment modalities, etc., shall be approved in accordance with federal and state guidelines.

4. Operational Requirements. The facility shall:

a. be fully operational for the business of providing substance abuse/addiction prevention/treatment during normal business hours and after hours as indicated/approved on original application or change notification approval;

b. be available as a community resource, and maintain current schedule of area support groups;

c. share space, telephones, or personnel with other entities only in compliance with R.S. 40: 2007.

d. have active clients who are receiving services at the time of any survey after the initial survey;

e. be able to accept referrals during hours of operation as specified on licensure application;

f. utilize staff to provide services based on the needs of their current caseload of clients;

g. have required staff on duty at all times during operational hours.

E. Required Facility Reporting. The facility director shall verbally/facsimile report these incidents to HSS within 24 hours of discovery. State-operated facilities are also required to follow OAD reporting policy:

1. fire and/or natural disasters;

2. any substantial disruption of program operation;

3. any death or serious injury of a client that may potentially be related to program activities; and

4. violations of laws, rules, and professional and ethical codes of conduct by facility personnel/volunteers.

F. Required Postings. The facility shall post a legible copy of the following documents in full view of clients, visitors, and employees:

1. the age appropriate Client Bill of Rights;

2. escape routes;

3. facility specific rules and responsibilities and grievance procedure;

4. current license and variances;

5. current activity schedule;

6. current survey findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

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§7419. Personnel Requirements

A. Standards of Conduct

1. The facility, and all personnel in accordance with individual professional licensure, shall:

a. protect the health, safety, rights, and welfare of clients;

b. provide services designated on license;

c. adhere to all applicable laws, regulations, policies, and procedures;

d. maintain required licenses, permits and credentials; and

e. adhere to professional and ethical codes of conduct.

2. Neither the facility nor any of its personnel shall:

a. commit an illegal, unprofessional or unethical act;

b. assist or knowingly allow another person to commit an illegal, unprofessional, or unethical act;

c. knowingly provide false or misleading information;

d. omit significant information from required reports and records or interfere with their preservation;

e. retaliate against anyone who reports a violation or cooperates during a review, inspection, investigation, hearings or related activity; or

f. interfere with Department reviews, inspections, investigations, hearings, or related activity. This includes taking action to discourage or prevent someone else from cooperating with the activity.

B. General

1. Referrals. Facility personnel shall report violations of laws, rules, and professional and ethical codes of conduct to HSS and to appropriate licensing board when applicable. The facility shall maintain records and have written policies governing staff conduct and reporting procedures that comply with this §7419.

2. Staffing. A facility shall employ sufficient and qualified staff to meet the requirements and responsibilities required by licensure as well as the needs of each client being served.

3. Qualifying Experience. Any experience used to qualify for any position must be counted by using one year equals 12 months of full-time work. At no time will any professional staff be considered full time at two facilities.

4. Caseloads. All counselors (including full time, part time, and those who also have other duties) must have

caseloads appropriate to available time, which shall be determined by the needs of the active clients and the level of treatment being provided.

5. Multiple Positions. A person may hold more than one position within the facility if that person is qualified to function in both capacities, and the required hours for each job are separate and apart for each position.

6. Credential Verification. Facility administration is responsible for assuring that all credentials are from accredited institutions, legal, and verified to deter the fraudulent use of credentials.

7. Clinical Services Director. A qualified professional supervisor or qualified professional counselor shall be designated, in writing, as responsible for supervising all treatment services and programs.

8. Contract Staff Services. Formal written agreements with professionals or other entities to provide services which may or may not be directly offered by facility staff are required for contract services. Both parties shall review and document review of each agreement annually.

C. Training

1. Orientation. Each employee shall complete at least eight hours of orientation prior to providing direct client care/contact. The content of the basic orientation provided to all employees at the time of employment with annual review shall include the following:

- a. policies/procedures and objectives of the facility;
- b. duties and responsibilities of the employee;
- c. organizational/reporting relationships;
- d. ethics and confidentiality;
- e. client's rights;
- f. standards of conduct required by the facility;
- g. information on the disease process and expected behaviors of clients;
- h. emergency procedures including disaster plan, evacuation;
- i. principals and practices of maintaining a clean, healthy and safe environment;
- j. additional information as appropriate to job duties, type of client, etc;
- k. universal precautions;
- l. violent behavior in the workplace;
- m. abuse/neglect;
- n. overview of Louisiana licensing standards;
- o. prevention overview, and
- p. basic emergency care of ill or injured clients until trained personnel can arrive.

2. In-Service. This educational offering shall assist the direct care/contact workers to provide current treatment modalities, and serve as refresher for subjects covered in orientation. Documentation of attendance for at least three hours per quarter is required. Additional educational programs are encouraged.

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Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7421. Personnel Qualifications/Responsibilities

A. Qualified Professional Supervisor (QPS)

1. Qualifications

a. The following professionals who are currently registered with their respective Louisiana board:

- i. licensed psychologist
- ii. Licensed clinical social worker

b. The following professionals who are currently registered with their respective Louisiana boards and who can demonstrate two years of professional level counseling experience, or one year of professional level substance abuse counseling, or 90 clock hours (six semester hours) of substance abuse training post-certification, including the twelve core functions from an accredited college or university, or an educational provider approved by DHH may function as QPS. Documentation shall be available from the facility upon request. The professionals eligible to become QPS's are listed below:

- i. board certified substance abuse counselor (BCSAC) or (LASACT)
- ii. licensed professional counselor (LPC)
- iii. licensed physician (MD)
- iv. registered nurse (RN)
- v. board-certified compulsive gambling counselor (BCCGC)
- vi. Masters-prepared social worker/counselor
- vii. Masters-prepared counselor under the supervision of a licensed psychologist or licensed clinical social worker (LCSW)

2. Responsibilities. The QPS shall:

- a. provide direct client care utilizing the twelve core functions of the substance abuse counseling and/or specific functions related to professional license;
- b. serve as resource person for other professionals counseling substance abuse clients;
- c. attend and participate in care conferences, treatment planning activities, and discharge planning related to primary caseload and/or clients of professionals being supervised;
- d. provide on-site and direct professional supervision of treatment and any counselor-in-training, including but not limited to, activities such as individual/group counseling, or educational presentations;
- e. provide oversight and supervision of such activities as recreation, art/music, or vocational education, to assure compliance with accepted standards of practice;
- f. function as patient advocate in all treatment decisions affecting the client;
- g. be designated as the clinical services supervisor unless other QPS's are employed and available at the facility) and/or actively supervise QPC if program does not require full-time supervisor;
- h. assure that facility adheres to rules and regulations regarding all substance abuse treatment, e.g., group size, caseload, referrals, etc.;
- i. provide only those services which are appropriate to their profession.

Qualified Professional Counselor (QPC)

1. Qualifications. A QPC is a professional who is employed in the treatment of abuse/addiction disorders and

who is currently licensed/certified by the appropriate Louisiana board as one of the following professionals:

- a. board certified substance abuse counselor (BCSAC) or (LASACT)
- b. Licensed clinical social worker (LCSW)
- c. licensed professional counselor (LPC)
- d. licensed psychologist
- e. licensed physician (MD)
- f. registered nurse (RN)
- g. board-certified compulsive gambling counselor (BCCGC)
- h. Masters-prepared social worker/counselor
- i. Masters-prepared counselor under the supervision of a licensed psychologist or licensed clinical social worker (LCSW)

2. Responsibilities. The QPC shall:

- a. provide direct care to clients utilizing the 12 core functions of substance abuse counseling and may serve as primary counselor to specified caseload;
- b. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;
- c. attend and participate in client care conferences, treatment planning activities, and discharge planning;
- d. provide on-site and direct professional supervision of any paraprofessional or inexperienced professional;
- e. function as the patient advocate in all treatment decisions affecting the client;
- f. prepare and write notes/other documents related to client recovery, e.g. assessment, progress notes, treatment plans, etc.; and
- g. provide only those services that are appropriate to their profession.

C. Board Certified Prevention Specialist (BCPS)

1. Qualifications. Prevention Specialists shall be certified in accordance with requirements promulgated by the LSBCSAC.

2. Responsibilities:

- a. program coordination;
- b. education and training;
- c. community organization;
- d. public policy;
- e. planning and evaluation; and
- f. professional responsibility.

D. Counselor in Training (CIT)

1. Qualifications:

- a. registered with the professional licensing board and in good standing at all times;
- b. actively pursuing certification at all times; and
- c. designated in writing as CIT by the facility and performing according to a written training plan under the auspices of the facility.

2. Responsibilities. The CIT shall:

- a. provide direct client care utilizing the core functions of substance abuse counseling only under the on-site supervision of facility employed QPS/QPC.
- b. not identify nor represent himself/herself as counselor.
- c. not perform any duties of counselor independently, without on-site supervision of facility employed QPS/QPC.

d. never identify themselves as a consultant to any substance abuse facility.

3. Exceptions: CITs who have documented evidence of at least 20 hours of training (including orientation and the 12 core functions of substance abuse counseling) and 60 hours of direct supervision by QPS/QPC may perform counseling functions when the QPS/QPC is on duty or on-call and available for immediate assistance if needed.

E. Prevention Specialist in Training (PSIT)

Qualifications:

- a. current registration with the professional licensing board and in good standing at all times;
- b. actively pursuing certification at all times, and
- c. designated in writing as PSIT by facility and performing in accordance with a written training plan under the auspices of the facility.

Responsibilities. PSIT's shall:

provide direct client care utilizing the standards developed by the professional licensing board only under the direct supervision of Prevention Specialist and/or QPC/QPS.

provide example for youth based group participants of clean and sober living.

Support Professional Staff. Support professional staff includes employees, consultants, contract employees, or volunteers who provide services in the capacity of their profession, including but not limited to, pharmacists, dietitians, physicians, nurses, social workers, teachers, counselors, or psychologists.

1. Qualifications:

- a. currently unencumbered license/registration with appropriate Louisiana Board (may be approved specifically by licensing Board, if encumbered), and
- b. a professional as recognized by the certifying entity, rather than assistant, aide, technician, associate, etc.

2. Responsibilities:

- a. those within their respective board's delineated scope of practice only.
- b. in-service, staff training, consultation to paraprofessionals and professionals and direct supervision, as needed to improve the overall quality of care being provided.

G. Volunteer

1. Qualifications. Volunteers must be:

- a. appropriately screened and supervised to protect clients and staff;
- b. oriented to facility, job duties, other pertinent information;
- c. appropriately trained to meet requirements of duties assigned;
- d. given a job description or written agreement; and
- e. identified as volunteers.

2. Responsibilities:

- a. direct care activities only when qualified facility personnel present;
- b. errands, recreational activities;
- c. individual assistance to support services; and
- d. other appropriately assigned duties.

H. Medical Director. Every facility licensed shall have a designated medical director. Primary prevention programs are not required to designate a medical director.

1. Qualifications. The medical director shall have a current, valid license to practice medicine in Louisiana.

2. Responsibilities:

a. provide services required by facility to meet the Standards.

b. provide oversight for facility policy/procedure and staff regarding the medical needs of the clients being served in accordance with the current standards of medical practice; and

c. retain ultimate responsibility for directing the specific course of medical treatment for all clients.

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§7423. Health and Safety

A. Infection Control

1. Facility shall protect staff, clients, and visitors from the potential/actual harm of infectious disease by the following policies and procedures:

a. Universal Precautions. Education, practice, and implementation shall be applied.

b. Infection control program to report, evaluate, and maintain documentation pertaining to the spread of infectious disease, including data collection and analysis, corrective actions, and assignment of responsibility to designated medical staff person.

c. Strict adherence to all sanitation requirements.

2. Facility shall establish and maintain a clean and neat environment by the implementation of the following housekeeping policies and procedures:

a. Supplies/equipment shall be available to staff/clients.

b. Consistent and constant monitoring and cleaning of all areas of the facility shall be practiced.

c. Facility may contract for services necessary to maintain a clean and neat environment.

d. Directions shall be posted for sanitizing both kitchen and bathroom areas.

3. Domestic animals shall be:

a. properly vaccinated; and

b. managed in a way consistent with the goals of the program and the needs of the client, including those with allergies.

B. Sanitation

1. Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odor, or provide a breeding place for pests.

2. If there is evidence of pests, the facility shall contract for pest control.

3. Poisonous, toxic and flammable materials shall be labeled, stored, and used safely.

C. Safety

1. Environmental

a. The entire facility, including grounds, buildings, furniture, appliances, and equipment, shall be structurally

sound, in good repair, clean, and free from health and safety hazards.

b. The facility shall comply with Americans with Disabilities Act (ADA).

c. The environment shall enhance client dignity and confidentiality.

d. The facility shall have adequate space, furniture, and supplies for the services described in the program description, including:

i. an adequate number of accessible drinking units;

ii. an adequate number of sanitized non-disposable or disposable hot/cold cups;

iii. clean, comfortable and appropriately furnished areas for various activities.

e. The facility shall have private counseling space. Staff shall have office space that is not required for other simultaneous activities.

f. The facility shall prohibit weapons of any kind on-site.

2. Evacuation/First Aid. The facility shall respond effectively during a fire or other emergency. Every program shall:

a. have emergency evacuation procedures that include provisions for the handicapped;

b. hold fire drills on each shift at least quarterly and correct identified problems promptly;

c. be able to clear the building safely and in a timely manner at all times;

d. post exit diagrams conspicuously throughout the program site;

e. post emergency numbers by all phones; and

f. have adequate first aid supplies that are visible and easy to access at all times.

3. Facility shall take all precautions possible to protect the staff, clients and visitors from accidents of any nature.

4. Facility shall have a written facility specific disaster plan, and staff shall be familiar with the contents of the plan as well as the location.

D. Emergency Care. Outpatient, Prevention and Education Programs may be exempt from these requirements if access to Emergency Medical Services is less than ten minutes.

1. At least one employee on site at each facility shall be certified in cardiopulmonary resuscitation and airway obstruction treatment and have training in dealing with out-of-hospital accidents and medical emergencies until emergency medical personnel and equipment can arrive at facility.

2. Facilities that have licensed nurses/physicians on duty during all hours of operation are exempt from this requirement.

E. Physical Plant Requirements

1. Required Inspections

a. The facility shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations. The inspections must be signed, dated, and free of any outstanding corrective actions. The following inspections are required:

i. annual fire marshal inspection;

- ii. annual inspection of the alarm system by a licensed contractor;
- iii. quarterly fire alarm system test by facility staff;
- iv. annual kitchen inspection by Office of Public Health;
- v. gas pipe pressure test once every three years by the local gas company or a licensed plumber;
- vi. annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform those duties; and
- vii. regular inspections of elevators.

b. The following documentation shall be on file in facility:

- i. certificate of occupancy as required by local authorities;
- ii. DHH approval of the water supply/system;
- iii. DHH approval of the sewage system; and
- iv. documentation that the liquefied petroleum supply has been inspected and approved.

2. Fire Notification/Protection Systems

a. A fire detection, alarm, and communication system required for life safety shall be installed, tested, and maintained in accordance with the facility's occupancy and capacity classifications.

b. Fire alarm systems shall be installed by agents registered with Office of State Fire Marshal.

c. Alarms shall be loud enough to be heard above normal noise levels.

d. Fire extinguishers shall be mounted throughout the facility as required by code and approved by Office of State Fire Marshal.

i. Each laundry and walk-in mechanical room shall have at least one portable A:B:C extinguisher, and each kitchen shall have at least one B:C fire extinguisher.

ii. Each fire extinguisher shall have the required maintenance service tag attached.

e. Staff shall conduct quarterly inspections of fire extinguishers for proper location, obvious physical damage, and a full charge on the gauge.

3. Exterior Space Requirements. A provider shall:

a. ensure that all structures on the grounds of the facility that are accessible to clients are maintained in good repair and are free from an excessive hazard to health or safety;

b. maintain the grounds of the facility in an acceptable manner and ensure that the grounds are free from any hazard to health or safety;

c. store garbage and rubbish securely in non-combustible, covered containers that are emptied on a regular basis;

d. separate trash collection receptacles and incinerators from client activity areas and locate all containers so as to avoid being a nuisance to neighbors;

e. keep fences in good repair;

f. fence off or have natural barriers around areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads.

4. Interior Space Requirements

a. Group Rooms. Seating for each client shall be provided with appropriate furnishings.

b. Leisure/Craft Areas. Materials appropriate to the clients being treated at the facility shall be stocked.

c. Bathrooms. Minimum facilities include:

i. adequate operational fixtures to meet Louisiana State Plumbing Code. All fixtures must be functional and have the appropriate drain and drain trap to prevent sewage gas escape back into the facility;

ii. an adequate supply of hot water for the number of clients and the program schedule. Hot water temperature at point of service to client shall be between 105 and 120 degrees Fahrenheit;

iii. toilets shall have seats and be located to allow access without disturbing other clients during sleeping hours and/or treatment sessions;

iv. adequate supply of toilet paper, towels, and soap;

v. doors to allow for individual privacy;

vi. external emergency release mechanism;

vii. safe and adequate supply of cold running water;

viii. safety mirrors attached to the walls at convenient heights and other furnishings necessary to meet the clients' basic hygiene needs;

ix. functional toilets, wash basins, and other plumbing or sanitary facilities which shall be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

d. Administrative and Counseling Space

i. Administrative office(s) for records, secretarial work and bookkeeping shall be separate and secure from client areas.

ii. Space shall be designated to allow for private discussions and counseling sessions.

e. Doors and Windows. Outside doors, windows and other features of the structure necessary for safety and comfort of clients shall be secured for safety within 24 hours after they are found to be in a state of disrepair. Total repair should be effected as soon as possible.

i. A provider must have insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

ii. All doors can be readily opened from both sides.

iii. All windows open to an outside view or a patio/porch area and are available for use as an alternate means of escape, if needed.

f. Storage. A provider shall:

i. ensure that there are sufficient and appropriate storage facilities;

ii. secure all potentially harmful materials.

5. Exits

a. Exit doors and routes shall be lighted and unobstructed at all times.

b. There shall be an illuminated "exit" sign over each exit. Where the exit is not visible, there shall be an illuminated "exit" sign with an arrow pointing the way.

c. Rooms for 50 or more people have exit doors that swing out.

d. No door may require a key for emergency exit. Locked facilities shall have emergency exit door releases as described in the Life Safety Code and/or approved by the Office of State Fire Marshal.

e. Windows shall provide a secondary means of escape.

f. Every building shall have at least two exits that are well separated.

g. Every multiple-story building shall have at least two fire escapes (not ladders) on each story that are well separated. Fire escapes shall:

- i. be made of non-combustible material;
- ii. have sturdy handrails or walls on both sides;

and

iii. provide a safe route to the ground.

h. Stairs and ramps shall be permanent and have non-slip surfaces.

i. Exit routes higher than 30 inches (such as stairs, ramps, balconies, landings, and porches) shall have full-length side guards.

6. Electrical Systems. All electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition. Any room, corridor, stairway and exit within a facility is sufficiently illuminated.

a. The facility shall have adequate lighting to provide a safe environment and meet user needs.

b. Lighting shall be provided outside the building and in parking lots.

c. Light bulbs shall have shades, wire guards or other shields.

d. Emergency lighting shall illuminate "exit" routes.

7. Ventilation

a. The facility shall not use open flame heating equipment or floor furnaces, unvented space heaters, or portable heating units.

b. Occupied parts of the building, including kitchen and laundry areas, shall be air conditioned and temperature should remain between 65 degrees and 85 degrees Fahrenheit.

c. The entire facility shall be adequately ventilated with fresh air. Windows used for ventilation shall be screened.

d. Provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of clients and staff.

8. Plumbing

a. Safe, clean, cold drinking water shall be readily available to all clients.

b. The plumbing systems shall be designed, installed, operated and maintained in a manner that is designed to provide an adequate and safe supply of water for all required facility operations and to facilitate the complete and safe removal of all storm water and waste water.

9. Finishes and Surfaces

a. Lead-based paint or materials containing asbestos shall not be used.

b. Floor coverings must promote cleanliness, must not present unusual problems for the handicapped and have flame-spread and smoke development ratings appropriate to the use area (e.g. client's room versus exit corridor).

c. All variances in floors shall be easily identified by markings, etc. to prevent falls.

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§7425. Rights, Abuse, Exploitation, and Neglect

A. Client's Rights. Involuntary hospitalization/commitment does not mean loss of your rights to make decisions about one's life. The client shall have the right to expect the following inclusive but not exclusive rights:

1. assistance with healing of family relationships;
2. protection from unsafe and/or unskilled care by any person associated with the facility;
3. protection from unqualified persons providing services under the auspices of treatment;
4. consideration and respect toward the client, family and visitors when those people treat the facility staff with respect and consideration;
5. protection of personal property approved by the facility; and
6. protection from retaliation when client exercises his or her rights.

B. Adult Bill of Rights. Adults have the right to:

1. a humane environment that provides reasonable protection from harm and appropriate privacy for personal needs;
2. be free from abuse, neglect, and exploitation;
3. be treated with dignity and respect;
4. appropriate treatment in the least restrictive setting available that meets individual needs;
5. be told about the program's rules and regulations before admission;
6. be told before admission:
 - a. the condition to be treated;
 - b. the proposed treatment;
 - c. the risks, benefits, and side effects of all proposed treatment and medication;
 - d. the probable health and mental health consequences of refusing treatment; and
 - e. other available treatments which may be appropriate;
7. accept or refuse treatment after receiving the explanation in paragraph 6 above;
8. change of mind at any time (unless specifically restricted by law);
9. a treatment plan designed to meet individual treatment needs, and the right to take part in developing that plan;
10. meet with staff to review and update the treatment plan on a regular basis;
11. refuse to take part in research without affecting regular care;
12. refuse unnecessary and/or excessive medication;
13. not to be restrained or placed in a locked room by self unless a danger to self or others;
14. have personal information kept confidential and to be told about the times when the information can be released without your permission;
15. communicate with people outside the facility. This includes the right to have visitors, to make telephone calls, and to send and receive sealed mail. This right may be

restricted on an individual basis by one doctor or the professional in charge of the program if it is necessary for treatment or for security, but even then the client may contact an attorney or DHH at any reasonable time;

16. be informed in advance of all estimated charges and any limitations on the length of services;

17. receive an explanation of treatment or rights while in treatment;

18. leave the facility within four hours of requesting release (if individual consented to treatment), unless a physician determines that he or she poses a threat of harm to self and others;

19. make a complaint and receive a fair response within a reasonable amount of time;

20. complain directly to DHH at any reasonable time;

21. get a copy of these rights before admission, including the address and phone number of DHH;

22. have rights explained in simple terms, in a way that can be understood, within 24 hours of being admitted.

C. Abuse, Neglect, and Exploitation

1. Reporting. All allegations of client abuse, neglect, and exploitation shall be reported verbally/facsimile within 24 hours, and confirmed in writing to HSS within seven days.

2. Abuse. Client abuse includes:

a. any sexual activity between facility personnel and a client;

b. corporal punishment;

c. nutritional or sleep deprivation;

d. efforts to cause fear;

e. the use of any form of communication to threaten, curse, shame, or degrade a client;

f. restraint that does not conform with these rules;

g. coercive or restrictive actions that are illegal or not justified by the client's condition taken in response to the client's request for discharge or refusal of medication or treatment; and

h. any other act or omission classified as abuse by Louisiana law.

3. Neglect. Neglect examples include:

a. failure to provide adequate nutrition, clothing, or health care;

b. failure to provide a safe environment free from abuse or danger;

c. failure to maintain adequate numbers of appropriately trained staff;

d. any other act or omission classified as neglect by Louisiana law.

4. Exploitation. Examples of exploitation include:

a. use of a client's personal resources, such as credit card, medical assistance card, or insurance card, to bill for inappropriate service;

b. use of the client's food stamps or other income to purchase food/services used primarily by others;

c. using the client to solicit money or anything of value from the public, or others.

5. Sexual Exploitation. It may include sexual contact, a request for sexual contact, or a representation that sexual contact or exploitation is consistent with or part of treatment.

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Subchapter C. Children/Adolescent Programs and Primary Prevention

§7427. Children/Adolescent Programs

A. General. Provisions in this section apply to facilities that are inpatient, outpatient, community-based, or primary prevention programs when service recipients are under 18 years of age. The following provisions are in addition to listed requirements for programs, and take precedence over conflicting requirements when services are provided to adolescents or children. Specific programs may have additional requirements in addition to those listed in this section.

1. The program lectures, and written materials shall be age-appropriate and easily understood by clients.

2. The program shall involve the adolescent's family or an alternate support system in the process or document why this is not appropriate.

3. Staff shall not provide, distribute, or facilitate access to tobacco products.

a. Staff shall not use tobacco products in the presence of adolescent clients.

b. The staff shall prohibit adolescent clients from using tobacco products on the program site or during structured program activities.

B. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. Any facility employee who provides direct care to children/adolescents shall meet the requirements of the *Louisiana Children's Code Article 116*. Specifically, the employee may have no documented history indicating the possibility that he/she would endanger the child. Facility shall make every effort to determine criminal history of employees.

2. The facility shall ensure that only qualified professional staff (R.S. 40:1098.2) plan, supervise, or provide education or counseling or training in the emotional, mental health, and substance abuse problems to adolescents.

3. All direct care employees shall have training in human adolescent development, family systems, adolescent psycho-pathology and mental health, substance abuse in adolescents, and adolescent socialization issues.

4. All direct care employees and volunteers shall be trained and competent to use personal and physical restraint.

C. Special Considerations

1. Facilities shall address the special needs of adolescents and protect their rights.

2. Adults and adolescents may be mixed for specific groups or activities when no conflict exists.

3. The facility shall obtain consent for admission and authorization to obtain medical treatment from parent or guardian prior to the time of admission for all clients under the age of majority.

4. If functional status of client is not age appropriate, facility shall provide additional supervision to provide for safety of all clients.

D. Minor's Bill of Rights. In accordance with the *Louisiana Children's Code, Article 116*; the minor has the right to:

1. an attorney and the right to communicate with that attorney in a private place at all times;
2. a copy of client rights in a language that can be reasonably understood;
3. receive and send letters, to receive and make telephone calls, to receive visitors (at least weekly);
4. spend a reasonable amount of money on small items, such as snacks, and soft drinks;
5. wear one's own clothes and keep personal things;
6. have a private space for personal belongings;
7. be disciplined in a way that is appropriate. Restraint and seclusion cannot be used to punish or discipline;
8. medicine that makes one feel better. If the medicine makes the minor feel bad, the individual should tell the nurse, doctor or client advocate;
9. treatment in a place that allows the most freedom possible;
10. treatment plan that is set up to meet individual needs;
11. leave the facility when condition improves enough so that treatment can be received in a less restrictive setting;
12. have a private doctor examine client at his or her own expense.

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HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7429. Primary Prevention Programs

A. Purpose. Programs are planned, goal-oriented activities designed for the following purpose:

1. promote personal (emotional, intellectual, physical, spiritual and social) growth of individuals; and/or
2. strengthen those aspects of the community environment which preclude, forestall, or impede the development of alcohol and other drug abuse problems.

B. Types. The following are types of prevention programs:

1. youth-based programs; and
2. community education centers. Educational programs provide educational services through qualified personnel for government agencies, community organizations, school systems (public and private), churches, businesses, medical and health systems, professionals and individuals. These types of programs relate to community and personal health issues concerning the prevention of substance use/abuse.

C. Activities/Strategies/Services

1. Activities

a. Information Dissemination. Primarily one-way communication to reach into a community systematically to identify "at risk" persons and their families, to inform the community of available services, location of needed services, and how to access the system.

b. Education. Primarily two-way communication to improve critical life and social skills, to increase resistance skills, and to improve ability to make judgments regarding the use of alcohol and other drugs.

c. Alternative Activities. Opportunities are provided that exclude the use of alcohol, tobacco, and other drug use.

d. Problem Identification and Referral. Activity provides assessment of community's need for primary prevention and/or identification/referral of "at risk" individuals.

e. Community-Based Process. Activities are designed to enhance the ability of the community to prevent substance abuse.

f. Environmental. Establishes or positively impacts written and unwritten community standards, codes and attitudes toward substance use/abuse.

2. Referral Services. Program staff will be trained to recognize the symptoms of substance abuse/addiction and referrals must be made only to appropriately licensed treatment programs.

D. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. All persons providing services to children/adolescents shall meet the criteria in §7417 of this document and the *Louisiana Children's Code, Article 116*. Facility must employ/assign personnel to provide for the safety of the clients during all activities.

2. A BCPS or QPS or QPC shall provide on-site supervision during all group activities.

3. At least one BCPS shall be available on duty for every 25 clients if program is for youth groups; otherwise for events such as community education, no guidelines.

4. Volunteers who work with children/adolescents shall be screened to prevent potential harm or danger to participants.

5. Prevention professional services differ from those of counselor in that prevention professional duties do not include intervention, therefore QPC or QPS professionals may perform duties of the CPS.

E. Client Functional Status. Clients must be appropriate to program design and presentation.

F. Adherence. Programs will adhere to models currently approved by OAD and DHH/HSS to reduce substance abuse and associated problem behaviors. Providers shall adhere to the following:

1. submit all required documentation for initial licensure as required in §7407 Initial Licensure;

2. maintain rosters of all clients with pre/post test scores;

3. provide services during the hours approved at initial licensing and also provide programs after-school, holidays, summer months, and weekends for youth groups;

4. outcomes shall be measured by reasonable criteria related to program goals.

5. Annual evaluations of program effectiveness to document the effect of the program will provide indicators for continuous quality improvement. Programs are exempt from §7417.D.2.

G. Participant Record Requirements. Each youth based group participant record shall include the following:

1. admission and referral information;

2. client/participant information/ data, name, race, sex, birth date, address, telephone number, Social Security number, school/employer, and next of kin/emergency contact;

3. medical limitations, such as major illnesses and allergies;

4. attendance, participation in services and/or activities; and

5. a release to obtain emergency care in case of illness or injury.

H. Facility Record Requirements. Facility shall maintain additional records as follows:

1. client/participant roster;

2. activity schedule;

3. pre/post test scores;

4. log of clients referred to or received from facilities for treatment or evaluation; and

5. personnel assignments/actual hours of work.

I. Community Education. Information is provided to the public related to abuse/addiction, either as outreach activities or as a resource center. Each facility shall:

1. employ and utilize BCPS or QPS or QPC;

2. submit the following for initial licensure:

a. credentials;

b. scheduled activities and locations;

c. program descriptions;

d. licensure fee with current, complete application;

and

e. description of target population(s).

3. provide all services in accordance with accepted standards of professional conduct.

4. maintain roster of participants/attendees, as well as documentation of all services provided.

5. provide a plan for process and outcome evaluation.

J. Special Considerations. All programs that contract with OAD must meet any additional requirements of OAD, and be approved in writing by OAD prior to licensing by HSS.

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Subchapter D. Core Requirements for Treatment Programs

§7431. Treatment/Detoxification Programs

A. General. If treating adolescents and/or children, follow §7427 in addition to other requirements.

B. Professional Staffing Standards. The following are the minimum staffing requirements for all treatment/detoxification programs and do not restrict any facility from utilizing additional staff. Specific programs may have additional staffing requirements.

1. Physician. Every licensed treatment or detoxification program shall have a designated medical director, who provides medical oversight of all care provided, participates in the development of policies and

procedures of the facility, and provides medical care if needed. The following duties may be performed by a qualified advance practice registered nurse when in collaborative practice with the medical director. Additional duties include, non-exclusively:

a. writing the admission/discharge orders, when required;

b. writing/approving all prescription medication orders;

c. writing and providing education regarding the protocols for administering all medications on-site, including non-prescription medications;

d. supervising or providing services and care; and

e. providing consultative and on-call coverage to assure health and safety of clients in the facility.

2. Nursing. Each facility shall have adequate nurses to provide nursing services when indicated by the diagnosis, nursing needs of the clients admitted to the facility, administration of medicines and/or treatments, and general physical health of clients. Adequate shall be defined as having nursing staff available whenever a client has needs requiring professional nursing skills.

3. Pharmacist. Any facility that dispenses/administers prescription medication on-site shall employ adequate staff to assure that any prescription medication administered and/or dispensed on-site shall meet the requirements of R.S. 37:1161 et seq. Facility shall have written agreement with a licensed pharmacist or licensed physician to provide on-site service and consultation and evaluation of medication policy and procedure of facility to dispense prescriptions, reconcile (administration and dispensing) inventories at least every 30 days, and to maintain medication records for at least three years.

4. Qualified Professional Supervisor (QPS). Every facility shall have QPS on-duty during operational hours at least one hour per week per counselor, two hours per week per counselor-in-training, and additionally as indicated by the needs of the active clients. Primary duties include supervising QPC's and CIT's during counseling sessions, treatment planning and counseling for clients who have complex needs/diagnoses. Specific additional requirements for 24-hour facilities are listed in the applicable section.

5. Qualified Professional Counselor (QPC). Each outpatient program shall have full-time QPC on duty during all hours of operation, and as determined by needs of the active clients, on-call after normal business hours. Specific requirements for 24-hour facilities are listed in the applicable section.

C. Treatment/Detoxification Protocols. All services shall be delivered according to a written plan and a posted activity schedule. The treatment program shall:

1. be age and culturally appropriate for the population served;

2. demonstrate effective communication and coordination;

3. provide for appropriate utilization of services;

4. be an environment that enhances the positive self-image of clients and preserves their human dignity;

5. administer/dispense medication safely and legally, only when prescribed or approved by the staff medical doctor or advanced practice registered nurse (APRN);

6. require professional participation in all required components of the treatment program;

7. assure that the hours of scheduled treatment activity meet requirements of the program license; and

8. utilize the 12 core functions of substance abuse counseling and other current standards of practice.

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§7433. Admission, Discharge, or Transfer

A. Admission Requirements. Initial Assessment and Diagnosis of specific abuse/addictive disorder/disease by the medical director or other licensed qualified professional (physician, advanced practice registered nurse-certified in mental health, licensed social worker, licensed professional counselor or licensed psychologist) as currently defined in the Diagnostic and Statistical Manual for Mental Disorders (DSM).

1. Initial Admission Diagnosis. Process shall contain:

a. physical examination within 72 hours when one is indicated by the M.D./nursing assessment/screening process.

b. laboratory examinations as required to prevent spread of contagious/communicable disease, as indicated by physical examination or nursing assessment, including drug screening when history is inconclusive or unreliable.

c. medical/nursing assessment/history and screening interview.

d. psycho-social evaluation—QPC/QPS shall document a psycho-social history that provides a thorough understanding of the client's history and present status including:

i. circumstances leading to admission;

ii. alcohol and other drug use, past and present (including amount, frequency, route of administration, and time/date of last use);

iii. past psychiatric and chemical dependency treatment;

iv. significant medical history and current health status;

v. family and social history;

vi. current living situation;

vii. relationships with family of origin, nuclear family, and significant others;

viii. education and vocational training;

ix. employment history (including military) and current status;

x. legal history and current legal status;

xi. emotional state and behavioral functioning, past and present; and

xii. strengths, weaknesses, and needs.

e. intake screening to include: vocational, economic, educational, and criminal/arrest information; and

f. appropriate assignment to treatment modality with referral to other appropriate services as indicated.

i. Clients shall have access to HIV counseling and testing services directly or through referral. Such counseling and testing shall be voluntary, anonymous/confidential, and not limited by ability to pay.

ii. The program shall make testing for tuberculosis and sexually transmitted diseases available to all clients unless the program has access to test results obtained during the past year. The services may be provided directly or through referral as long as appropriate follow-up referral/care is also provided.

2. Additional Requirements. Additional admission requirements are:

a. availability of appropriate physical accommodations;

b. legal authority or voluntary admission;

c. availability of professionals to provide services needed as indicated by the initial assessment and diagnosis; and

d. written documentation that client/family consents to treatment and understands the diagnosis and treatment modality.

3. Client/Family Orientation. Each facility shall provide orientation, confidentially and efficiently primarily by qualified professional, concerning:

a. visitation;

b. family involvement;

c. safety;

d. authorization to provide treatment;

e. potential problems;

f. projected duration of treatment;

g. consequences of non-compliance;

h. treatment methodology; and

i. all pertinent information, including fees and consequences of non-payment of fees.

4. Re-admissions. Each facility shall have written re-admission standards which address criteria, length of stay, authorization to make exceptions, and crisis intervention.

B. Discharge Criteria. Each program shall develop and follow appropriate written criteria to decide when/how clients will be discharged or transferred to another level.

1. Indicators. The criteria shall utilize indicators to determine:

a. satisfactory completion of the level;

b. need for referral or transfer to another level or facility; and

c. when client should be discharged before completing the program.

2. Discharge Plan. A written, client-specific plan to provide reasonable protection of continuity of services, that shall include:

a. client transfer or referral/assignment to outside resources, continuing care appointments, crisis intervention assistance, and discharge summary;

b. documented attempts to involve family or an alternate support system in the discharge planning process;

c. planning before the client's scheduled discharge;

d. individual goals or activities to sustain recovery; and

e. signature of the client and consenting person/guardian.

3. Discharge Summary. When client is being transferred to another level of treatment, two working days

are allowed for completion. In other situations 30 days are allowed. The summary must be written, client specific, and include:

- a. needs and problems identified at the time of admission (may be attached);
- b. services provided;
- c. assessment of the client's progress towards goals;
- d. circumstances of discharge; and
- e. evidence that continuity of care recommended following discharge.

4. Request for Discharge. When such a request is received, the facility shall:

- a. not hold a voluntary client against the consenter/guardian's will;
- b. have written procedures for handling discharges and discharge requests that comply with applicable statutes;
- c. not try to keep a client in treatment by coercion, intimidation, or misrepresentation;
- d. not say or do anything to influence the client's decision that is not justified by the client's condition.

C. Transfer Process. Transfer procedures between two facilities to provide continuum of care which may be based on the compilation of client data rather than completing additional medical history/examination/physician orders, psycho-social assessment, treatment plan, and other pertinent information upon admission to inpatient or outpatient care.

1. Sender requirements:

- a. transfer all client information within two working days of transfer;
- b. notify the receiving facility (in writing) simultaneously with arrival of client any information that will be needed to care for client before transfer information arrives; and
- c. request and receive approval from receiving facility prior to transfer.

2. Receiver requirements:

- a. provide client with orientation to facility; and
- b. update all information received in transfer.

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§7435. Client Records

A. Client Record Standards. The facility is required to maintain a clinical record according to current professional standards for each client.

1. Safeguards shall be in place to prevent unauthorized access, loss, and destruction.

2. Client record can be copied and/or transferred from one facility to another provided that client signs authorization for transfer of record and provided that confidentiality of information is strictly in adherence with 42 CFR, Part 2.

3. Client records shall be maintained at the facility where the client is currently active and for six months after

discharge. Records may then be transferred to a centralized location for maintenance in accordance with standard practice and state and federal laws.

4. Confidentiality. Records shall be:

- a. accessible only to authorized personnel trained in confidentiality and others granted access by legal authority such as surveyors, investigators, etc.;
- b. not shared with any other entity unless approved in writing by client, except in medical emergencies; and
- c. kept in compliance with 42 CFR, Part 2.

5. Record-keeping Responsibility. A trained medical records person or professional shall be designated as responsible for the client records.

B. Contents. Client record shall accurately document treatment provided and client response in accordance with professional standards of practice at all times. This record shall contain all pertinent past and current medical, psychological, social and other therapeutic information.

1. Minimum client record requirements for Treatment/Detoxification Programs.

- a. Admission diagnosis and referral information;
- b. Client information/ data - name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;
- c. Screening—See program specific requirements;
- d. Medical limitations, such as major illnesses, allergies; and
- e. Attendance, participation in services/activities.

2. Additional Minimum Requirements for Client Treatment Records Contents

- a. Initial assessment and diagnosis. See §7431.C.1.
- b. Treatment plan. The plan is a written list of the client's problems and needs based on admission information and updated as indicated by progress or lack of progress. Additionally, the plan shall:

- i. contain input from primary counselor and client within 72 hours after admission, then information from other disciplines added as client is evaluated and treated;

- ii. be reviewed and revised as required, or more frequently as indicated by client needs;

- iii. contain client-specific, measurable goals that are clearly stated in behavioral terms;

- iv. contain realistic and specific expected achievement dates;

- v. contain how facility will provide strategies/activities to help the client achieve the goals;

- vi. be followed consistently by all staff members; and

- vii. contain complete, pertinent information related to the mental, physical, and social needs of the client; and

- c. Diagnostic laboratory and other pertinent information, when indicated.

- d. Progress Notes. In accordance with current professional standards of practice, progress notes shall:

- i. document implementation of the treatment plan and results;

- ii. document services provided to the client. This may be done by filing a copy of the program schedule in the client record and documenting the client's level of participation in the progress notes;

iii. be completed weekly by the QPS/QPC to document progress toward stated treatment plan goals unless client is seen on a less frequent basis in accordance with the treatment plan; and

iv. be verified and co-signed by QPS/QPC when prepared or written by CIT.

e. Client Contact Report. The staff member involved in the incident shall prepare and file a written report.

f. Other pertinent information related to individual client as appropriate.

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§7437. Core Functions/Services

A. Core Functions. Core functions are: Screening, Intake, Orientation, Assessment, Treatment Planning, Counseling, Case Management, Crisis Intervention, Client Education, Referral, Reports and Record Keeping, and Consultation with Professionals.

1. Assessment—core function in which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan. Collection of data from client and/or family/others sufficient to formulate an individualized and client-specific treatment plan or referral to appropriate level of care. If this assessment does not lead to a diagnosis, then it may be performed by QPS/QPC.

2. Case Management—core function in which services, agencies, resources, or people are brought together within a planned framework of action toward the achievement of established goals. It may involve liaison activities and collateral contracts with other providers/facilities.

3. Client Education—core function in which information is provided to individuals and groups concerning alcoholism and other drug abuse, positive lifestyle changes, and the available services and resources. Educational group size is not restricted and may be offered as outreach program. Program shall:

- a. follow a course outline that identifies lecture topics, activity schedule, and major points to be discussed;
- b. include benefits of participation in appropriate self-help groups; and
- c. not identify the activity as a counseling session.

4. Client Orientation—core function in which the client is informed regarding:

- a. general nature and goals of the program;
- b. rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;
- c. availability of services;
- d. costs; and
- e. client's rights. See §7431.C.3.

5. Consultation with Professionals—core function in which functional relationship with counselors and other credentialed health care professionals is provided as required to assure comprehensive quality care for the client including, but not limited to, treatment of children, adolescents, or clients/family members who have complex problems or who are dually diagnosed with abuse/addiction disorder and mental illness.

6. Counseling (Individual/Group) Services—core function in which appropriate support is provided to the client by those professionals qualified to provide therapeutic services.

a. Special skills are used to assist individuals, families, or groups in achieving objectives through:

- i. exploration of a problem and its ramifications;
- ii. examination of attitudes and feelings;
- iii. consideration of alternative solutions; and
- iv. decision making and problem solving.

b. Counseling Session (individual, group, or family) is a documented interaction between qualified professional personnel and client or client and significant others.

c. All counseling groups shall be homogenous and no more than 12 clients.

d. Counseling sessions shall last at least 30 minutes.

7. Crisis Intervention Services—core function in which appropriate assistance during emergencies including 24-hour telephone coverage by qualified counselor to provide telephone assistance to prevent relapse, to provide referral to other services, and to provide support during related crises. Facilities may have written contract with another facility to provide coverage only if the caller is automatically transferred or given directions to reach professional assistance, or receive a call from a professional within a 30-minute time frame.

8. Intake—core function in which information is gathered about a prospective client. Information is given to a prospective client about the treatment facility and facility's treatment and services. See □ 7431.C.

9. Referral—core function in which appropriate services not provided by facility are identified, and client/family is assisted to optimally utilize the available support systems and community resources. Facility shall provide appropriate resource information regarding local agencies to client/family upon need/request and/or procedures to access, including but not limited to, vocational services, community services, and organizations to support recovery such as transitional living services, transportation, and vocational services. Additionally, facility will be expected to:

- a. provide access to appropriate health care and mental health services;
- b. refer pregnant clients who are not receiving prenatal care to an appropriate health care provider and monitor follow-through; and
- c. refer clients to ancillary services necessary to meet treatment goals.

10. Reports and Record Keeping—core functions in which results of the assessment and treatment planning are recorded. Written reports, progress notes, client data, and discharge summaries and other client related documentation is recorded in the client record. See □ 7431. F. and G.

11. Screening—core function that is the determination of whether a client meets the program's admission criteria. It uses information such as the person's reason for admission, medical and substance abuse history, and other needed information to determine client's need for treatment, and/or appropriateness of admission. See □ 7431. C.

12. Treatment Planning—core function in which the counselor and the client:

- a. identify and rank problems needing resolution;
- b. establish agreed upon immediate objectives and long-term goals; and
- c. decide on a treatment process, frequency, and the resources to be utilized. Documentation of treatment planning process shall be in accordance with □ 7431. F and G.

B. Services

1. Toxicology Services

a. Programs are required to have on-site or written agreement for toxicology services with a laboratory with appropriate Clinical Laboratories Improvement Amendments (CLIA) certification for testing.

b. If collection is performed on-site, facility shall have written protocols for collection of specimens in accordance with current standards of practice and have written approval by the testing laboratory.

c. The minimal set of substances required to be screened for toxicology are subject to annual approval by OAD.

2. Contract Services. Programs may use an outside source to provide any of the services listed above, however, the facility retains responsibility for the service.

3. Formal written agreements with professionals or other entities to provide services which may or may not be directly offered by facility staff:

- a. are required for contract services;

both parties shall review and document review of each agreement annually;

c. the facility retains full responsibility for all services provided by contract, unless client is discharged from original facility and admitted to contract facility;

d. all services provided by contract shall meet the requirements of these standards and be provided only by qualified providers (licensed if required).

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Subchapter E. Outpatient Programs

§7439. Outpatient Counseling Programs

A. Purpose. Programs provide non-residential treatment services for clients who require on-going support on a regular or irregular basis, such as:

1. continuing Care for those who have completed primary treatment and require minimal support to avoid relapse;

2. early Intervention for those who have been identified as substance abusers and referred for education, activities, or support services designed to prevent progression of disease;

3. initial point of entry/reentry. Activities related to assessment, evaluation, diagnosis and assignment of level of care are provided, including transfer between facilities and/or treatment modalities, relapse assessment, and assignment to level of care;

4. combination of the above

Note: Facility license is not required for individual or group practice of licensed counselors/therapists providing the above services under the auspices of their individual license(s).

B. Staffing. All requirements are in addition to §7431.

1. QPS—on-call as needed for crisis intervention.

2. QPC—hours of operation, and on-call as needed for crisis intervention.

3. Nursing and Pharmacy—not required, unless designated on license.

4. Caseload size is based on needs of the active clients to ensure effective, individualized treatment and rehabilitation. Approval by OAD or HSS is required in writing when caseload exceeds 50 active clients. For this standard, *active* is defined as being treated at least every 90 days.

C. Client Functional Status. Clients must be able to function independently in outpatient setting with appropriate support.

D. Special Considerations. When these services are court ordered, facility will provide all services in accordance with these licensing standards, maintain court related information, and initiate necessary communications to facilitate the court referral process.

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§7441. Intensive Outpatient Treatment Programs

A. General

1. All requirements are in addition to core requirements.

2. Outpatient treatment facilities offer increased levels of responsibility for clients to apply knowledge and to practice skills in structured and non-structured settings.

3. Organized and structured day/evening treatment sessions are offered for at least nine hours per week on three or more days per week.

B. Staffing. All requirements are in addition to §7431 unless otherwise noted .

1. Supervisor (QPS). Ten hours weekly during hours of operation.

2. Counselor (QPC). Counselor shall be on site during all hours of operation and available for crisis intervention as needed.

3. Caseload. Counselor shall have no more than 25 active clients unless written approval is granted by OAD or HSS. For this standard, *active* is defined as being treated at least every 30 days.

4. Groups (counseling) shall not exceed 12 clients, but may be smaller in keeping with the needs of the clients.

5. Facility may use outpatient counseling standards for those clients who do not receive intensive outpatient treatment, however, the client must meet criteria for functional status for outpatient counseling and be designated as counseling client.

C. Client Functional Status. Clients shall be able to function with limited supervision within their existing environment or in environments designed to provide support, but cannot independently maintain stability for at least 72 hours.

D. Special Considerations. Treatment plan review/adjustments shall be documented in progress notes weekly by counselor, and by other disciplines as needed to assure continuity of care.

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§7443. Opiate Addiction Treatment Programs

A. General. All requirements are in addition to core requirements.

1. Opiate addiction treatment programs detoxify chronic opiate addicts from opiates and opiate derivatives and maintain the chronic opiate addict utilizing a synthetic narcotic until the client can achieve recovery through a spectrum of counseling and other supportive/rehabilitative services.

2. Programs shall document justification, annually, for any client who continues to require opiate addiction treatment after five years.

3. The primary mission of all opiate addiction treatment is complete withdrawal of client from all addictive substances.

4. Treatment protocols require that facility provide medically-approved and medically-supervised assistance to withdraw from the synthetic narcotic when:

- a. the client requests withdrawal;
- b. quality indicators predict successful withdrawal;
- c. client or payor source suspends payment of fees,

and
d. other events occur as defined in the 21CFR 291.505.

5. Each facility is required to independently meet the requirements of the protocols established by OAD/State Methadone Authority.

6. Any program that fails to maintain any required licensure shall be also terminated immediately.

7. Facility shall get approval from State Methadone Authority prior to submitting application to HSS for initial licensure.

8. Each program shall also comply with requirements of 21 CFR 291.505 unless the comparable state requirement is more stringent.

9. Each client shall have documented evaluation by a physician or advanced practice registered nurse as follows:

a. at least weekly until the client becomes physically stable and has completed at least four weeks of attendance at clinic (at least six days per week); then

b. at least quarterly until the client completes one year in the program.

c. annually thereafter; and

d. any time that client is unstable.

B. Treatment Phases/Specific Requirements

1. Initial Treatment. Intensive assessment and intervention phase lasting from three to seven days in duration. Services to be provided are:

a. admission verification by physician that treatment is medically necessary as determined by physical examination and medical diagnosis (prior to administering of any medication).

b. individual counseling as indicated by daily nursing assessment;

c. initial treatment plan includes initial dose of medication and plan for treatment of critical health or social issues; and

d. client may not be issued any unsupervised take home dose (until written determination is available); and

e. client orientation.

2. Early Stabilization. Beginning on the third to seventh day of treatment (following initial treatment) through 8 weeks duration, the following shall be provided:

a. frequent monitoring by nurse of the client's reaction to medication;

b. individual counseling comprised of at least four individual counseling sessions during this phase;

c. development of treatment plan within thirty days with input by all disciplines, client and significant others; and

d. random monthly drugs of abuse/alcohol screens.

3. Long-term Treatment. This stage follows the end of early stabilization and lasts for an indefinite period of time. Services to be provided are:

a. random monthly drug/alcohol screens until the client has negative drugs of abuse/alcohol screens for one year, then approximately every 90 days. Clients who are allowed six days of take-home medication shall be tested every month;

b. continuous evaluation by the nurse of the client's use of medication/treatment from other sources;

c. documented reviews of the treatment plan every ninety days by treatment team; and

d. progress notes addressing response to treatment at least every 30 days.

4. Withdrawal. Medically supervised withdrawal from synthetic narcotic with continuing care. This service is provided if and when appropriate. Services to be provided are:

a. decreasing the dose of the synthetic narcotic to accomplish gradual, but complete withdrawal, within the tolerance level of the client;

b. counseling of the type and quantity determined by the indicators and the reason for the medically supervised withdrawal from the synthetic narcotic; and

c. discharge planning with continuity of care to assist client to function without support of the medication and treatment activities.

A. Counseling. Type and quantity shall be based on the assessment and recommendations of the treatment team and shall meet the following requirements:

1. Written documentation shall support decisions of the treatment team including indicators such as positive drug screens, maladjustment to new situations, inappropriate behavior, criminal activity, and detoxification procedure.

2. All counseling shall be provided individually or in small (not to exceed 12 clients) homogenous groups provided that group counselor is familiar with all clients and documents all contacts in the client record.

3. Written criteria are used to determine when a client will receive additional counseling and/or when individual take home medication privileges are more stringent than state guidelines.

4. Counseling shall be provided when requested by client/family.

D. Staffing. All requirements are in addition to §7431.

1. Pharmacist. Licensed pharmacist or licensed dispensing physician, in accordance with R.S. 38:1161 et seq., shall:

a. dispense all medications;

b. reconcile administration and dispensing inventory records at least every 30 days; and

c. maintain medication records for at least three years;

d. approve all transport devices for take home medications.

2. Nursing. All medications shall be administered under the supervision of a registered nurse or physician. A licensed practical nurse cannot administer medication unless registered nurse or physician is on duty or on call as defined in §7401.

3. QPS. On-site five hours per week per 100 clients.

4. QPC. One full time for each 50 clients and prorated if more or less active clients. The counselor's caseload is determined by the needs of the clients in the counselor's caseload and the counselor's available time to provide individual and group counseling. Any caseload greater than 50 clients per counselor must have written approval of State Methadone Authority and HSS.

5. Physician. Sufficient hours on-duty and on-call as needed during hours of operation.

E. Client Admission Criteria

1. Facility shall verify that the client:

a. is at least 18 years old, unless the client has parental consent, and

b. meets the federal requirements regarding determination that client is currently addicted to opiates and has been addicted to opiates for at least one year prior to admission.

2. Physician Verification. The physician shall diagnose the client based upon:

a. referring medical history and diagnosis of chronic opiate addiction, as currently defined in the

Diagnostic and Statistical Manual for Mental Disorders (DSM);

b. physical examination;

c. confirmed documented history of opiate addiction;

d. needle marks(if indicated);

e. opiate positive drug screens; and early signs of withdrawal.

F. Take-Home Medication Privilege. Determinations shall be made by the treatment team and documented in the client record.

1. Client responsibilities/considerations:

a. negative drug/alcohol screens for at least 90 days;

b. regularity of clinic attendance;

c. absence of serious behavioral problems;

d. absence of known criminal activity;

e. stability of home environment and social relationships;

f. assurance that take home medication can be safely stored;

g. whether the benefit to the patient outweighs the risk of diversion.

2. Exceptions. Each exception must be documented and justified by the physician, approved by the State Methadone Authority and federal agencies as required, then an exception can only be granted by those agencies for emergencies and severe travel hardships.

3. Standard Schedule (if indicated)

a. After 90 days in treatment with clinic attendance at least three times per week, no more than a two-day supply of take-home medication.

b. After two years in treatment with clinic attendance at least two times per week, no more than a three-day supply of take-home medication.

c. After three years in treatment with clinic attendance at least weekly, no more than a six-day supply of take-home medication.

4. Revocation of Privilege. Positive drug screens at any time, revoke the take home privilege and require a new determination to be made by the treatment team.

5. When the clinic is closed for a legal holiday or Sunday, a take home dose may be dispensed to clients who have attended the clinic at least twice and who have been determined by the nurse to be physically stable and by the counselor to create a minimal risk for diversion.

H. Client Record. Specific additional requirements for documentation include:

1. standards of clinical practice regarding medication administration/dispensing;

2. results of five most recent drug urine screens with action taken for positive results;

3. physical status and use of additional prescription medication;

4. monthly or more frequently, as indicated by needs of client, contact notes/progress notes which include employment/vocational needs, legal and social status, overall client stability; and

5. any other pertinent information.

I. Training. In addition to Orientation as described in §7419. Staffing Qualifications/Requirements, all direct care

employees shall receive training and demonstrate knowledge that includes:

1. symptoms of opiate withdrawal;
2. drug urine screens and collections, policies and procedures;
3. current standards of practice regarding opiate addiction treatment;
4. poly-drug addiction; and
5. information necessary to assure care is provided within accepted standards of practice.

J. Temporary Transfers or Guest Dosing. The facilities involved shall do the following:

1. Receiving facility shall verify dosage prior to administering medication.
2. Sending facility shall verify dosage and obtain approval/acceptance from receiving facility prior to client's transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

Subchapter F. Twenty-four Hour Facilities

§7445. Additional Core Requirements for twenty-four hour facilities

A. Physical Plant Requirements

1. Kitchens. Kitchens used for meal preparations by either staff or clients shall be appropriately sized and provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals provided to the clients/staff. In addition, if clients prepare meals, additional equipment and space will be required. All equipment shall be maintained in working order.

a. Trash containers shall be made of metal or United Laboratories-approved plastic.

b. Trash containers in kitchens and dining area shall be covered.

2. Staff Quarters. Live-in staff shall have adequate, separate living space with a private bathroom (toilet, wash basin, and tub/shower).

3. Leisure. Allotted leisure space shall be adequate for the capacity designated on the license and approved by DHH-Engineering and Planning. Each living unit of any residential facility shall contain a space for the free and informal use of clients. This space shall be constructed and equipped to meet programmatic goals.

4. Dining Area. Space shall be provided that permits clients, staff and guests to eat together in small groups and is clean, well-lighted, ventilated and attractively furnished.

5. Bedrooms. Mobile homes shall not be used for client sleeping areas. No more than four clients may occupy a designated bedroom space unless the floor plan is approved by DHH sections of Engineering and Professional Review, Fire Marshal, OAD and HSS. Sleeping areas shall have at least:

a. 80 usable square feet per person in single-occupancy rooms;

b. 60 usable square feet per person in multiple-occupancy rooms (or 50 square feet per person if bunk beds are used). Bunk beds shall not be used for Inpatient Primary Treatment programs;

c. doors for privacy and a functional window;

d. adequate personal storage space for each client, including space for hanging clothes and adequate drawer space;

e. a ceiling height of at least seven feet six inches in a bedroom space of a size consistent with square footage requirements above, even if part of the room has a ceiling less than 7 feet six inches tall.

f. bed of solid construction, appropriate to size and age of client, that has a clean, comfortable, non-toxic fire-retardant mattress that fits bed. Cots or other portable beds are to be used in emergencies only.

g. clean sheets, pillow, bedspread and blanket provided by the facility as needed or requested by the client unless the request is unreasonable. All linens must be in good repair and systematically removed from use when no longer usable;

h. enough room above the uppermost mattress of any bed to allow the occupant to sit up;

i. a door/escape window leading directly to the outside of the building.

6. Bathrooms. There shall be at least one sink, one tub or shower, and one toilet for every eight residents.

a. Showers and tubs shall have no-slip surfaces and curtains or other safe enclosures.

b. Items required for personal hygiene shall be provided in residential facilities unless clients are already in possession of such items.

7. Miscellaneous

a. Personal appliances shall be in good working order and inspected for safety hazards.

b. All clients shall have access to laundry services at reasonable cost or properly maintained laundry facilities.

8. Recreational Equipment. All 24-hour treatment facilities shall have access to reasonable outdoor recreational space and suitable recreational equipment.

9. Vehicles. Transportation shall be provided in a safe and reliable vehicle that is properly licensed, insured, and inspected, and driven by an appropriately licensed person. Vehicles must be adequately insured and operated in accordance with all applicable laws and regulations.

B. Dietary Services. Services are provided on-site under the direction of a qualified dietitian, who is available for telephone consultation whenever client is admitted and has physician orders for dietary restrictions/supplements.

1. General Requirements. The facility shall provide:

a. meal break after five consecutive hours of scheduled activities;

b. an OPH approved kitchen with continuous conditions/procedures to maintain all foods at temperatures and under conditions to assure safe, sanitary handling;

c. nutritious meals of adequate quality and quantity to meet the needs of each client, including religious and dietary restrictions;

d. at least three meals daily, with no more than 14 hours between any two meals;

e. at least an evening snack;

2. Dietitian. The dietitian shall:

- a. approve menus and provide written guidelines for substitutions in advance;
- b. provide staff in-service training as needed to assure quality meal service;
- c. provide information to professional staff regarding dietary needs of specific clients and be available for consultation when necessary.

3. Facility. The facility shall:

- a. serve meals in a relaxed atmosphere that promotes utilization of newly learned skills in socialization and communication;
- b. maintain sanitation of dishes;
- c. ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects; and
- d. ensure that animals are not permitted in food storage, preparation, and dining areas.

4. Responsibility. Facility retains responsibility to assure that meal preparation/service with client participation meets all requirements listed above and to supervise adequately to ensure compliance.

a. The program shall define duties in writing and have written instructions posted or easily accessible to clients.

b. If menu planning and independent meal preparation are part of the client's treatment program, a licensed dietitian shall:

- i. approve the client training curriculum; and
- ii. provide training or approve a training program for staff who instruct and supervise clients in meal preparation.

5. Contract Services. Meal preparation/service may be provided by contract service. However, facility is responsible for ensuring that all standards above are met.

C. Adolescent/Children Requirement.

1. Staffing. All requirements are in addition to §7431.

a. Twenty-four-hour facilities require that the qualified professional counselor ratio to clients shall be no higher than 1:8 during waking hours. A minimum of two staff persons shall be present at all times. A qualified professional counselor shall be on call at all times. Program sponsored activities away from the facility require staff to client ratio no higher than 1:5 with a minimum of two adults at all times.

b. Clients shall be under direct supervision at all times.

i. Onsite, staff shall be readily available at all times, preferably within eyesight or hearing distance. If clients are not within eyesight, staff shall conduct visual checks at least once every hour, including bed checks.

ii. Offsite, clients shall be within eyesight at all times.

2. Educational Resources. Programs for school age children shall provide Department of Education-approved opportunity for clients to maintain grade level and continuity of education during any treatment lasting longer than 14 days unless treatment occurs during school vacation.

3. Physical Plant

a. Residential facilities shall have separate bedrooms and bathrooms for adults and adolescents and for males and females.

b. Adults and adolescents shall not be housed in the same area.

4. Family Communications. The facility shall allow regular communication between an adolescent client and the client's family and shall not arbitrarily restrict any communications without clear, written, individualized clinical justification documented in the client record.

D. Dependent Care. A program that designed to provide substance abuse treatment to mothers with dependant children who remain with parent while the parent is in treatment.

1. Treatment Services

a. Weekly individual and group counseling or family therapy shall be conducted by qualified professional with appropriate experience.

b. Parenting classes shall be provided weekly. Attendance is required.

c. The program shall address the specialized needs of the parent and include services for children.

d. Education, counseling, and rehabilitation services shall address:

- i. the effects of chemical dependency on a woman's health and pregnancy;
- ii. parenting skills; and
- iii. health and nutrition.

e. The program shall have a procedure to regularly assess parent-child interactions. Any identified needs shall be addressed in treatment.

f. Program staff shall provide access to family planning services.

2. Staffing. All requirements are in addition to §7431.

a. Qualified trained professionals shall provide constant supervision appropriate to age of each child.

b. The program shall provide or arrange for child care with a qualified provider while the parent participates in treatment activities. Before supervising children independently, the provider shall have infant CPR certification and at least eight hours training in the following areas:

- i. chemical dependency and its impact on the family;
- ii. child development and age-appropriate activities;
- iii. child health and safety;
- iv. universal precautions;
- v. appropriate child supervision techniques; and
- vi. signs of child abuse.

c. Every children's program shall have an employee or consultant who is available to provide staff training, evaluation of effectiveness of direct care staff, and to plan activities, etc. for at least one hour per week per child. This employee shall meet the following educational requirements:

- i. 90 clock hours of education and training in child development and/or early childhood education; and
- ii. one year of documented experience providing services to children.

d. When staff are responsible for children, the staff-to-child ratio shall not exceed 1:3 for infants (18 months and younger) and 1:6 for toddlers and children. Clients shall not supervise another parent's children without written consent from the legal guardian and staff approval.

3. Special Considerations

a. Staff shall not allow anyone except the legal guardian or a person authorized by the legal guardian to take

a child away from the facility. If an individual shows documentation of legal custody, staff shall record the person's identification before releasing the child.

b. Facility shall have written policy/procedure regarding parent abuse and/or neglect of a child.

c. Residential programs shall not accept dependents over the age of 12 without specific variance approval of OAD and HSS.

d. Children over the age of six shall not share a bedroom with a member of the opposite sex who is not in the child's immediate family.

e. The program shall ensure that children are directly supervised by parents or qualified providers at all times.

f. The program shall have a written policy and a current schedule showing who is responsible for the children at all times.

g. The daily activity schedule shall include a variety of structured and unstructured age-appropriate activities.

h. The program shall provide a variety of age-appropriate equipment, toys, and learning materials.

i. School age children shall have access to school.

j. Standards protecting the health, safety, and welfare of clients also apply to their children.

k. Behavior management shall be fair, reasonable, consistent, and related to the child's behavior. Physical discipline is prohibited.

4. Safety Practices

a. The evacuation procedures shall include provisions for children approved by the fire marshal.

b. The program shall not allow children to use:

i. climbing equipment or swings on or near concrete or asphalt;

ii. toys that explode or shoot things;

iii. other sharp or dangerous items; or

iv. toys and equipment in disrepair.

c. The program shall have safeguards to prevent children from using toys that are dangerous because they are not age-appropriate.

d. The program site shall meet the additional physical plant requirements as required for children.

5. Health Practices

a. The program shall have procedures for isolating parents and children who have communicable diseases and providing them with appropriate care and supervision.

b. The program shall keep current immunization records for each child at the program site.

c. The program shall obtain a consent to obtain emergency medical care for each child at admission.

d. Each child shall have an assessment by a medical doctor and/or advanced practice registered nurse within 96 hours of admission. Copies of an assessment performed up to seven days before admission are deemed to meet this requirement.

e. The program shall provide potty chairs for small children and sanitize them after each use.

f. The program shall provide age-appropriate bathing facilities. Infants shall not be bathed in sinks.

g. Staff, volunteers, and parents shall use universal precautions when caring for children other than their own.

h. The program shall ensure that children are clean and appropriately dressed.

i. Staff shall check all diapers frequently, change without delay, and dispose of the diapers in a sealed container and sanitize the changing area.

j. The program shall provide an adequate diet for childhood growth and development, including two snacks per day.

k. Children's medication shall be given according to the label by the parent or a licensed health professional. The facility shall obtain written consent from the parent to administer the medication, as required. The facility shall assume full responsibility for the proper administration and documentation of medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7447. In-patient Detoxification Programs

A. Types. All requirements are in addition to core requirements.

1. Medically Supported. Professional medical and nursing coverage available as determined by the needs of clients admitted for detoxification in a non-hospital residential setting.

2. Non-medical. Semi-skilled observation, monitoring and treatment by trained para-professionals, for those clients who have been medically approved, and whose detoxification process can be predicted.

NOTE: Medical detoxification is not covered under this licensure as it involves professional level continuous observation, monitoring and treatment for those clients whose detoxification process cannot be predicted due to unstable physical condition or other relevant conditions. Louisiana has only hospital-affiliated medical detoxification programs.

B. Staffing. All requirements are in addition to §7431.unless otherwise noted.

1. Medically Supported Detoxification. Facility shall have qualified professional medical, nursing, and other support staff necessary to provide services appropriate to the needs of clients being admitted to the program.

a. QPS—10 hours per week per 10 clients.

b. QPC—40 hours per week per 10 clients—may be combination of two or more professional disciplines.

2. Non-medical Detoxification—personnel shall consist of professional and other support staff who are adequate to meet the needs of the clients admitted to the facility.

a. QPS—five hours per week per 10 clients.

b. QPC—40 hours per week per 15 clients—may be combination of two or more professional disciplines.

3. Designated medical director may be consultative only.

C. Emergency Admissions. The admission assessment process may be delayed only until the client can be interviewed, but no longer than 24 hours unless seen by a physician. Facilities are required to orient direct care employees to monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

1. History. The program shall obtain enough medical and psycho-social information about the client to provide a clear understanding of the client's present status. Exceptions shall be documented in client record.

2. Medical Clearance/Screening

a. Medically Supported. Medical history and physical examination completed during the 24 hours preceding admission is acceptable, if it is approved by the program's physician or advanced practice nurse. A medical history shall be completed within 24 hours and a physician's examination within 72 hours, unless emergency occurs.

b. Non-medical. Medical screening upon arrival, by First Responder, or equal as reflected in §7423. Health and Safety, with telephone access to RN or MD for instructions for the care of the client.

3. Toxicology/Drug Screening

a. Medically Supported. Physician may waive drug screening if and when client signs list of drugs being abused and understands that his/her dishonesty could result in severe medical reactions during detoxification process.

b. Non-medical. Clients who require drug screening shall be transferred to Medically Supported or Medical Detoxification Program until stabilized.

4. Stabilization Plan. Qualified professional shall identify the client's short term needs based on the detoxification history, the medical history, and the physical examination, if available and prepare a plan of action until client becomes physically stable.

5. Detoxification Plan

a. Medically Supported. The detoxification plan shall be reviewed and signed by the physician and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

b. Non-medical. The detoxification plan shall be reviewed and signed by the counselor and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

6. Detoxification Notes. The program shall implement the detoxification plan and document the client's response to and/or participation in scheduled activities. Notes shall include:

- a. the client's physical condition, including vital signs;
- b. the client's mood and behavior;
- c. client statements about the client's condition and needs; and
- d. information about the client's progress or lack of progress in relation to detoxification goals; and
- e. additional notes shall be documented as needed.

7. Physicians' Orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§ 7449. Primary Residential Treatment Programs

A. General. All requirements are in addition to core requirements. Programs shall include:

1. continuous monitoring, observation, and treatment modalities using the 12-step program design;

2. at least 25 hours of structured treatment activities per week including counseling and educational activities. At least three additional hours must be organized social and/or recreational activities.

B. Staffing. All requirements are in addition to §7431, with the exception of a pharmacist.

1. QPS—shall be on duty as needed, but at least 10 hours per week to assure close supervision and individualized treatment.

2. QPC—counselor shall be on-duty whenever counseling is being provided. If counseling is needed after customary hours, counselor shall be available to be on-duty.

3. Caseload shall not exceed 1:15. Size of counseling groups shall be determined by the needs of clients, but shall not exceed 12 clients.

C. Client Functional Status. Client shall be medically/mentally stable and/or without conditions other than AA/DD that require daily or more frequent monitoring, medications or treatments.

D. Special Requirements. Weekly treatment plan review with documentation by all appropriate disciplines at least once during the first two weeks of treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7451. Inpatient Primary Treatment

A. General. All requirements are in addition to core requirements. Programs shall include:

1. Continuous monitoring, observation, and treatment modalities using the twelve-step program design or other models by appropriate medical and psychiatric support personnel.

2. At least 25 hours of structured treatment activities per week including counseling and educational activities. At least three additional hours must be organized social and/or recreational activities, and

3. Non-acute therapeutic regime including medical and psychiatric care, as needed.

B. Staffing. All requirements are in addition to §7431.

1. QPS—15 hours per week per 25 clients to also provide therapy.

2. QPC—40 hours per week per 15 clients.

3. Caseload shall not exceed 1:12 unless prior approved by OAD and HSS.

4. Nursing. Registered nurse is required at least 40 hours per week per 50 clients. Additionally, nursing functions may be supplemented by licensed practical nurses, if a registered nurse or physician is on-duty/on-call in accordance with §7401.

C. Client Functional Status. Clients may require psychiatric and/or medical /nursing care in addition to substance abuse services. Facility may utilize tiered system with client progression to Residential Treatment level of care, however, client must meet the functional status requirements and the facility must designate.

D. Special Requirements

1. Weekly treatment plan review shall be documented by all disciplines involved in care of client to assure continuity of care.

2. Emergency Power. Facilities with capacity greater than 50 clients shall have a reliable, adequately sized emergency power system. The emergency power system is powered by a generator set or battery system, where permitted, to provide power during an interruption of normal electrical service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7453. Community-Based Programs

A. General. All requirements are in addition to core requirements. Programs shall include:

1. transitional living, support and counseling, room and board, social and recreational activities and vocational opportunities;

2. structured, drug-free environment to allow client to maintain or to improve upon the gains made during prior treatment or currently being made in treatment.

3. opportunities for the client to focus on re-socialization and to gradually resume responsibilities associated with independent living.

4. provision of services in Halfway and Three Quarter Houses.

B. Staffing. All requirements are in addition to §7431.

1. QPS—available by telephone for consultation.

2. QPC—counselor must be on-duty when majority of clients are awake and on-site.

Caseload shall not exceed 1: 25 unless prior approved by OAD and HSS.

3. House Manager—nontreatment, direct care person who supervises activities of the facility when the professional staff is on call, but not on duty. This person is required to have adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed.

C. Client Functional Status. Clients shall be capable of increasing life responsibilities or be additionally enrolled in primary treatment. If clients are admitted who are also receiving primary treatment, then facility shall meet requirements of Residential Treatment and facility is expected to employ additional professional staff as needed.

D. Special Considerations. Treatment plan review shall be documented in progress notes monthly by all disciplines involved in care of client to assure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

§7455. Therapeutic Community (Long Term Residential)

A. General. All requirements are in addition to core requirements. Facilities shall provide:

1. highly structured environments designed to treat those clients who have demonstrated a pattern of recidivism or a need for long term residential treatment;

2. graduated levels of increasing responsibility, functional capacity, autonomy, privilege, and authority to promote emotional and interpersonal growth through experience or expectation, accountability, support, evaluation, and both favorable and unfavorable consequences for behavior.

B. Staffing. All requirements are in addition to §7431.

1. QPS—additionally, five hours per week to provide supervision and individual treatment as indicated.

2. QPC—40 hours per week per 20 clients.

3. Caseload—not to exceed 1: 20 unless prior approval granted by OAD and HSS.

4. Senior Clients—may be utilized as volunteers to assist in the recovery process, provided that facility staff is on-site and immediately available if needed.

C. Client Functional Status. Upon admission, client must require constant supervision and monitoring to maintain stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1 - 9, redesignated R.S. 40:1058.1 - 9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, May 26, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Standards/Requirements for
Substance Abuse/Addiction Treatment
Facilities/Programs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed rule will not result in an increase or decrease in state programmatic costs. However, \$4,320 (\$2,160 SGF and \$2,160 FED) will be incurred in SFY 2000-2001 for the state's administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state revenue collections by approximately \$2,160 in SFY 2000-2001 for the federal share of the cost of promulgating this proposed rule, the final rule, and for printing the new substance abuse licensing standards.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule establishes the minimum licensing standards required for all substance abuse/addiction treatment facilities/programs. Any existing substance abuse/addiction treatment facilities/programs that cannot meet these standards will have its license revoked. Adoption of these standards will assure the quality of care provided by substance abuse/addiction treatment facilities/programs thus clients will benefit from this effort. There is insufficient data available on substance abuse facilities/programs operating in Louisiana to project a fiscal impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are currently 193 providers in the classes of providers toward which these proposed standards will apply. The proposed minimum licensure standards may cause some of these providers to choose to discontinue, resulting in a reduction in the number of current operating providers. However, it is anticipated that new substance abuse/addiction treatment facilities may be licensed, thereby increasing employment opportunities for Louisiana residents as the facilities hire qualified staff. There is insufficient data available on substance abuse facilities/programs operating in Louisiana to project a fiscal impact.

Ben A. Bearden
Acting Director
0004#090

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Laboratory and Portable X-Ray
Services—Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the

Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for laboratory and portable x-ray services under the Medicaid Program. Reimbursement for laboratory services is made on the basis of either the lower of billed charges, the state maximum amount, or the Medicare fee schedule amount. Reimbursement for portable x-ray services is on a flat fee basis. As a result of a budgetary shortfall, the Bureau determined it was necessary to reduce the reimbursement rates for laboratory and portable x-ray services by 7 percent (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates for laboratory and portable x-ray services by 7 percent. This action is necessary to avoid a budget deficit in the Medical Assistance Program.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, May 26, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Laboratory and Portable X-Ray
Services—Reimbursement Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$146,994) for SFY 1999-00, (\$904,199) for SFY 2000-01, and (\$931,325) for SFY 2001-02. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$348,518) for SFY 1999-00, (\$2,158,807) for SFY 2000-01, and (\$2,223,571) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement by 7 percent for laboratory and portable x-ray services. This proposed rule will reduce reimbursement by approximately (\$495,632) for SFY 1999-00, (\$3,063,006) for SFY 2000-01, and (\$3,154,896) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Acting Director
0004#085

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Physician Services—Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses physician services in accordance with an established fee schedule for Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPC). Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third-party coverage would pay. As a result of a budgetary shortfall, the Bureau determined it was necessary to reduce the reimbursement paid to physicians for specific procedure codes (*Louisiana Register*, Volume 26, Number 2). Reimbursement was reduced by 7 percent for selected locally-assigned HCPCS and the following CPT procedure codes: surgery codes (10040-69979), medicine

codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999), and pathology and laboratory codes (80048-89399). In addition, reimbursement for selected neonatal care CPT procedure codes (99295 and 99298) was reduced by 16 percent. Reimbursement for tonsillectomy and adenoidectomy CPT procedure codes was also reduced to the following amounts: \$425.25 (42821); \$405.00 (42825); \$438.75 (42826); \$408.38 (42830); and \$388.13 (42831). This action was taken to avoid a budget deficit in the Medical Assistance programs. The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to physicians for specific professional services procedure codes. The reimbursement for selected locally-assigned Health Care Financing Administration Common Procedure Codes and the following Current Procedural Terminology procedure codes is reduced by 7 percent: surgery codes (10040-69979), medicine codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999), and pathology and laboratory codes (80048-89399). In addition, reimbursement for selected neonatal care CPT procedure codes (99295 and 99298) is reduced by 16 percent. Reimbursement for tonsillectomy and adenoidectomy CPT procedure codes is also reduced to the following amounts: \$425.25 (42821); \$405.00 (42825); \$438.75 (42826); \$408.38 (42830); and \$388.13 (42831).

The following physician services are excluded from this reduction in reimbursement fees: chemotherapy medications, prenatal and postnatal visits (CPT codes Z9004, Z9005 and Z9006), vaginal and cesarean deliveries, anesthesia services for vaginal and cesarean deliveries, tubal ligations, hemodialysis, and radiology oncology services.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, May 26, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Professional Services Program—
Physician Services Reimbursement Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$1,328,320) for SFY 1999-00, (\$4,575,916) for SFY 2000-01, and (\$4,713,194) for SFY 2001-02. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 1999-00 for the state's administrative cost of promulgating this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$3,148,771) for SFY 1999-00, (\$10,925,155) for SFY 2000-01, and (\$11,252,909) for SFY 2001-02.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will reduce reimbursement to physicians by 7 percent for the performance of specific procedure codes. This proposed rule will reduce reimbursements by approximately (\$4,477,251) for SFY 1999-00, (\$15,501,071) for SFY 2000-01, and (\$15,966,103) for SFY 2001-02.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition. As a result of the rate reduction some physicians may find it necessary to reduce staff or staff hours of work.

David W. Hood
Secretary
0004#088

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Rehabilitation Center Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for services rendered by rehabilitation

centers that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third-party coverage would pay. As a result of a budgetary shortfall, the Bureau determined it was necessary to reduce the reimbursement rates for rehabilitation center services by 7 percent (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 1, 2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates for services provided in a rehabilitation center by 7 percent. A rehabilitation center is a facility that is not part of a hospital, but is organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. This action is necessary to avoid a budget deficit in the Medical Assistance Program.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, May 26, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Rehabilitation Center Services
Reimbursement Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$1,423) for SFY 1999-00, (\$18,236) for SFY 2000-01, and (\$18,783) for SFY 2001-02. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$3,455) for SFY 1999-00, (\$43,539) for SFY 2000-01, and (\$44,846) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement by 7 percent for rehabilitation center services. This proposed rule will reduce reimbursement by approximately (\$4,998) for SFY 1999-00, (\$61,775) for SFY 2000-01, and (\$63,629) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers may find it necessary to reduce staff or staff hours of work.

David W. Hood
Secretary
0004#087

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Targeted Case Management
Services—Reimbursement Reduction**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for targeted case management services rendered to the following targeted populations: Infants and Toddlers, High Risk Pregnant Women, HIV-Infected Persons and recipients in the Elderly and Disabled Adult Waiver. Reimbursement for these services is a fixed monthly rate for the provision of the core elements of case management services. As a result of a budgetary shortfall, the Bureau determined it was necessary to reduce the fixed monthly reimbursement rate for case management services provided to the above-referenced targeted populations by 7 percent (*Louisiana Register*, Volume 26, Number 2). The Bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 emergency rule. This action is necessary in order to avoid a budget deficit in the medical assistance programs.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the fixed monthly reimbursement rate for targeted case management services provided to the following targeted populations by 7 percent. Infants and Toddlers, High Risk Pregnant Women, HIV-Infected Persons and recipients in the Elderly and Disabled Adult Waiver.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, May 26, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Targeted Case Management Services—
Reimbursement Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately (\$26,974) for SFY 1999-00, (\$66,489) for SFY 2000-01, and (\$68,484) for SFY 2001-02. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately (\$64,020) for SFY 1999-00, (\$158,745) for SFY 2000-01, and (\$163,507) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement by 7 percent for case management services rendered to the following targeted populations: Infants and Toddlers, High Risk Pregnant Women, HIV Infected Persons and Elderly and Disabled Adult Waiver recipients. This proposed rule will reduce reimbursement by approximately (\$91,114) for SFY 1999-00, (\$225,234) for SFY 2000-01, and (\$231,991) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some case management agencies may find it necessary to reduce staff or staff hours of work.

David W. Hood
Secretary
0004#086

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Requirements; Applications and Sketches of School Bus and Mass Transit Vehicles; Inspections; Installation of Liquefied Petroleum Gas Systems Used as Engine Fuel System for School Bus/Mass Transit Vehicles; Fueling (LAC 55:IX.107, 201, 203, 205, 207)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the Commission proposes to amend its rules. The proposed rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The proposed rule changes will do eight things:

1. Will require a weighing device at locations which fill DOT specification cylinders of 100 lbs. or less liquefied petroleum gas capacity that are in commerce or transportation and require these devices to be tagged, inspected and checked for accuracy annually.

2. Will require an application/sketch for review and initial approval before installation of a liquefied petroleum gas system used as an engine fuel system for school bus/mass transit vehicles.

4. Will provide for two exceptions to the application/sketch review and initial approval process for a liquefied petroleum gas system used as an engine fuel system for school bus/mass transit vehicles.

5. Will require registration with the Commission, all school bus/mass transit vehicles which have a liquefied petroleum gas system used as an engine fuel system and require the annual renewal of this registration.

6. Will require a registration decal be affixed to all school bus/mass transit vehicles which have a liquefied petroleum gas system used as an engine fuel system and prohibit operation or fueling of a vehicle which does not have a current decal affixed.

7. Will require a final inspection by the Commission, on newly installed systems, on all school bus/mass transit vehicles which have a liquefied petroleum gas system used as an engine fuel system and require an annual inspection thereafter and prohibit the operation or fueling of a vehicle which has not met the inspection requirements.

8. Will prohibit the operation or fueling of all school bus/mass transit vehicles which have a liquefied petroleum gas system used as an engine fuel system, which do not meet the requirements of this Chapter or the requirements of Chapter 8 of the NFPA pamphlet 58 that the Commission has adopted.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A. - 5.b. ...

c. Each location of Class 1, Class 6 and Class 8 dealers, which fill DOT specification cylinders of 100 lbs. or less, liquefied petroleum gas capacity, that are in commerce or transportation, shall provide a suitable weighing device (scales). The Commission shall tag, inspect and check for accuracy the weighing device (scales) annually. A weighing device (scales) that have not been tagged, inspected and checked for accuracy shall not be used to determine the quantity of liquefied petroleum gas in cylinders.

6. - 13. ...

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

HISTORICAL NOTE: Adopted by the Department of public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:

Chapter 2. School Bus and Mass Transit Installations [formerly Chapter 12]

Editor's Note: This chapter applies to liquefied petroleum gas systems supplying liquefied petroleum gas to propel school buses and mass transit vehicles.

§201. Applications/Sketches and Approval of School Bus and Mass Transit Vehicles; Final Inspections; Registrations; Renewal Registrations

A. Prior to the initial installation of a liquefied petroleum gas system used as a motor fuel system on any school bus or mass transit vehicle, either public or private, an application/sketch shall be submitted to a Liquefied Petroleum Gas Commission inspector for review and initial approval. The name of the dealer making the installation must be stated on the application/sketch.

1. Exceptions:

a. When an original equipment manufacturer (OEM) made the installation of the liquefied petroleum gas system, the prior to initial installation review and initial approval requirement of Part A. is waived; however an application/sketch, registration, and final inspection must be performed prior to placing into service.

b. When the installation of the liquefied petroleum gas system is made out-of-state, the prior to initial installation review and initial approval requirement of Part A is waived; however the application/sketch, registration, and final inspection must be performed prior to placing into service.

B. After installation of the liquefied petroleum gas system but prior to placing into service, the vehicle(s) will be registered with the Liquefied Petroleum Gas Commission, by means of the application/sketch and evidenced by a registration decal affixed to the vehicle.

C. A renewal registration shall be made annually by the owner, between February 1 and April 30. Renewal registration forms will be mailed from the Liquefied Petroleum Gas Commission office to the previous year's registrants.

D. After installation of the liquefied petroleum gas system but prior to placing into service, a final inspection

shall be made by a Liquefied Petroleum Gas Commission inspector.

E. A liquefied petroleum gas dealer or owner shall not fuel any school bus/mass transit vehicle with liquefied petroleum gas to which a current registration decal is not permanently affixed.

F. It shall be a violation of the Commission rules and regulations for an owner to operate any school bus/mass transit vehicle which is propelled by liquefied petroleum gas, to which a current registration decal is not permanently affixed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998), LR 26:

§203. Inspections

A. A final inspection by a Liquefied Petroleum Gas Commission inspector is required on all newly installed liquefied petroleum gas systems.

B. The Liquefied Petroleum Gas Commission reserves the right to make an inspection of a liquefied petroleum gas system at any time.

C. All school bus/mass transit vehicles with renewal registrations shall be inspected between May 1 and July 31 by a Liquefied Petroleum Gas Commission inspector. It shall be a violation of the Liquefied Petroleum Gas Commission rules and regulations to operate a school bus/mass transit vehicle without the required annual inspection.

D. A liquefied petroleum gas dealer shall not fuel any school bus/mass transit vehicle which has been condemned or placed out-of-service by the Liquefied Petroleum Gas Commission and notification published in an all dealer letter (A.D.).

E. No liquefied petroleum gas system shall be placed into service on any school bus/mass transit vehicle which does not comply with this Chapter and Chapter 8 of NFPA 58, that the commission has adopted.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998), amended LR 26:

§205. Installation of Liquefied Petroleum Gas Systems Used as Engine Fuel Systems for School Bus/Mass Transit Vehicles

A. Installation of a liquefied petroleum gas system used as an engine fuel system for school bus/mass transit vehicles shall be in accordance with the applicable sections of NFPA 58, Chapter 8, that the commission has adopted.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998), amended LR 26:

The commission will hold a public hearing May 25, 2000, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to these changes.

Written comments will be accepted through May 15, 2000 and should be sent to Charles M. Fuller at P.O. Box 66209, Baton Rouge, LA 70896. All interested persons will be

afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended actions.

Charles M. Fuller
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Requirements; Applications and Sketches of School Bus and Mass Transit Vehicles; Inspections; Installation of Liquefied Petroleum Gas Systems Used as Engine Fuel System for School Bus/Mass Transit Vehicles; Fueling

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be minimal administrative costs to the Department of Public Safety in FY 00-01. There will be no implementation costs to any local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a loss in revenues to the Liquefied Petroleum Gas Commission in FY 00-01 calculated to be \$1,900 for FY 00-01 and for each future year as a result of the proposed action. There will be no loss in revenues to any local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a decrease in costs to the owners of school buses and mass transit vehicles which have a liquefied petroleum gas system used as an engine fuel system. The decrease in their costs is calculated to be \$1,900 for FY 00-01 and for each future year. There will be no costs or economic benefit to any other group, person or non-governmental unit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact or effect on competition and employment because of the proposed actions.

Charles M. Fuller
Director
0004#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Food Stamp Program—Quarterly Reporting (LAC 67:III.2013 and 2015)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 3, Food Stamps.

In an effort to improve program administration and lessen the burden of responsibility on recipients, the agency requested and received approval from the United States Department of Agriculture, Food and Nutrition Service, Waiver #990070, under the authority of 7 CFR 273.3(c)(1)(ii), to waive the requirement that certain food stamp households report changes within ten days of the date of the change and to otherwise implement a quarterly reporting system for all non-public assistance (NPA) households with earned income (with some exceptions). This

notice, therefore, proposes the requirement of quarterly reporting for the Food Stamp Program in Louisiana.

The agency also proposes to repeal §2013. Monthly Reporting and Retrospective Budgeting which is no longer in effect.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households
Subchapter S. Quarterly Reporting

§2013. Monthly Reporting and Retrospective Budgeting
Repealed

§2015. Quarterly Reporting

A. All NPA households with earned income will submit a reporting form to the agency on a quarterly basis, with the following exceptions:

1. migrant or seasonal farmworker households;
2. households in which all members are homeless; or
3. households whose only income is from self-employment.

B. Households required to quarterly report will be assigned a certification period of twelve months.

- C. All households in quarterly reporting are required to:
1. timely provide a completed quarterly report form and all necessary verification; and
 2. report current household circumstances and changes which the household knows will occur.

E. Failure to provide a complete quarterly report form and verification will result in case closure.

F. Benefits will be determined prospectively based on verified circumstances.

G. Any change in benefits as a result of quarterly reporting will be effective the month following the month in which the quarterly report was required.

H. Other changes will be processed in accordance with §1999. Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a) and 273.3(c)(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

Interested persons may submit written comments by May 25, 2000, to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the responding authority for inquiries regarding this proposal.

A public hearing on the proposed rule will be held on May 25, 2000, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Family Impact Statement

I. What effect will this rule have on the stability of the family? This rule would enhance access to the food stamp program for low income families by eliminating the requirement of face-to-face interviews every three months.

II. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

III. What effect will this have on the functioning of the family? This rule will have no effect on the functioning of the family.

IV. What effect will this have on family earnings and family budget? This rule will result in less interruption in time away from a recipient's employment by alleviating the requirement of a redetermination interview every three months.

V. What effect will this have on the behavior and personal responsibility of children? This rule will have no effect on the behavior and personal responsibility of children.

VI. Is the family or local government able to perform the function as contained in this proposed rule? No, the Food Stamp Program is strictly a state function.

J. Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Food Stamp Program—Quarterly
Reporting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost of implementation of this rule is based on the mailing of approximately 16,900 quarterly reporting forms per month by required households, that is, \$.41 for the postage-paid return envelope that will be provided with each form. This results in estimated costs of \$69,290 in FY 00/01 and \$83,148 each subsequent year.

Staff time, printing of forms, and other associated costs required to perform tasks associated with quarterly reporting will be offset by the fact that households in quarterly reporting will no longer require three-month redeterminations of eligibility, thereby eliminating the scheduling, the printing and mailing of the application and appointment letter, and the face-to-face interview required for redeterminations. The routine cost of publishing the rule and printing policy revisions is minimal and is within the current budget.

There is no cost or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Those persons directly affected are food stamp recipients in Non-Public Assistance households with earned income who will be required to submit a quarterly report on the household circumstances. Since these households will no longer be redetermined every three months or be required to report changes within ten days, many recipients will not have to take time off from jobs or spend transportation money to attend an interview. There are no non-governmental groups affected by the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This proposed action has no impact on competition or employment.

Vera W. Blakes
Assistant Secretary
0004#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services**

Rehabilitation Services—Applicant/Client Appeal Rights
(LAC 67:VII.107)

In accordance with the provisions of R.S. 49:953B, the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services, is amending its Vocational Rehabilitation Services Policy Manual: Section 107.Applicant/Client Appeal Rights.

The rule governing Applicant/Client Appeal Rights outlines the due process policy for anyone who is dissatisfied with a decision made by the agency.

This rule is being amended as the Louisiana Rehabilitation Services' (LRS) appeals process has undergone a significant change as a result of the 1998 amendments to the Rehabilitation Act. The fourth level of review by the Director of LRS was removed. However, it is within the express authority of the Rehabilitation Act for LRS to implement this level of review. It is significant to note that although the new amendments do allow for a fourth level of review, the characteristic of this fourth level of review is that it must be conducted, at a minimum, by the DSS Secretary.

Currently, the final administrative level of appeal is the impartial hearing officers, who are required to review agency determinations and issue decisions based upon the provisions of the State Plan, the Rehabilitation Act (including regulations implementing the Act) and State regulations or policies that are consistent with the federal requirements specified in the Act.

DSS General Counsel has strongly recommended to LRS to put the fourth level review in place, and LRS did so with an emergency rule effective February 25, 2000. This recommendation was necessary due to the influx of controversial rulings from impartial hearing officers, which have exposed the agency to sanctions or penalties by the United States as being contrary to the State Plan, the Rehabilitation Act (including regulations implementing the Act) and State regulations or policies that are consistent with the federal requirements specified in the Act. These unlawful rulings have not been based upon the Act's authorities (including specific guidance and directives by RSA), but have evidenced the hearing officers' subjective interpretation of the substantive law.

Because the Rehabilitation Act requires implementation of the hearing officer's decision pending a civil action for review, LRS may be mandated to comply with and/or implement a decision which violates the law and policy of the State Plan, the Rehabilitation Act (including regulations implementing the Act) and State regulations or policies that

are consistent with the federal requirements specified in the Act, as well as a disregard of a specific directive of Rehabilitation Services Agency (RSA), the federal agency authorized to implement and administer the provisions of the Act. However, said compliance with the hearing officer's decision would subject Louisiana Rehabilitation Services to an audit exception by RSA and concurrent sanctions. Moreover, such unauthorized spending, when paired with the resultant sanctions/loss of federal funding, would greatly reduce the services available and imperil the public health, safety, and welfare of the State's VR population. These unlawful decisions have and will result in VR Program abuse, as numerous clients have been advised to resort to the appeals process in bad faith in order to take advantage of these beneficial rulings.

RSA has scheduled a compliance review of LRS for April 10, 2000. LRS has been informed by RSA that agency action in accord with said hearing officers' decisions constitutes "substantial compliance failure"; under the Rehabilitation Act, said failures will subject LRS to penalties and sanctions.

The LRS policy manual is referenced in LAC 67:VII. as follows.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§107. Applicant/Client Appeal Rights

A. - B.11.f. ...

C. Fair Hearing

1. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review; at any point after a mediation session; or as a direct avenue of appeal bypassing the administrative review or the mediation process option. The fair hearing will be conducted by an Impartial Hearing Officer after receipt of the initial written request. At the time the fair hearing is requested, the applicant/client shall be offered mediation as an option to resolve a dispute if mediation has not been exercised already.

2. An Impartial Hearing Officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

3. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the fair hearing process unless the services being provided under the current Individualized Plan for employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

4. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to

pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

- a. the agency's decision (inclusive of an administrative review and/or mediation agreement, if conducted);
- b. the basis for, and effective date of, that decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

D. Review of Fair Hearing Decisions

1. The impartial review for decisions rendered by impartial hearing officers is the final level of appeal within the Department of Social Services regarding disputes arising within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the impartial review by the Department of Social Services, any further review of the issue by the applicant/client (or, as appropriate, the applicant/client's representative) or the Agency must be by civil action through the public court system.

2. The applicant/client or the Agency can request a review of an Impartial Hearing Officer's decision by making a written request to the Secretary of the Department of Social Services within statutory guidelines. The Secretary cannot delegate the responsibility for making this final decision to any officer or employee of Louisiana Rehabilitation Services. The applicant/client and the Agency shall be provided an opportunity to submit additional evidence and information relevant to the final decision.

3. The Department of Social Services' Secretary may not overturn or modify a decision of an Impartial Hearing Officer, or part of such a decision, that supports the position of the applicant/client unless the Secretary determines, based on clear and convincing evidence, that the decision of the Impartial Hearing Officer is clearly erroneous on the basis of being contrary to the State Plan, the Rehabilitation Act (including regulations implementing the Act) or any State regulation or policy that is consistent with the federal requirements specified in the Act.

4. The Secretary shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services. This decision shall include a full report of the findings and grounds for the decision.

E. Civil Action - Any party aggrieved by a final decision from an impartial review by the Department of Social Services may bring civil action for review of such decision. The action may be brought in any state court of competent jurisdiction or in district court of the United States of competent jurisdiction without regard to the amount in controversy. If a party brings a civil action, the final decision of the Department of Social Services shall be implemented pending review by the court. In any action brought under this subsection, the court shall:

1. receive the records relating to the hearing;
2. hear additional evidence at the request of a party to the action; and
3. base the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), amended LR 25:1266 (July 1999), amended LR 26:

Family Impact Statement

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed rule for the Vocational Rehabilitation Policy Manual, Applicant/Client Appeal Rights will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA, 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed rule.

Public hearings will be conducted at 10:00 a.m. on Wednesday, May 24, 2000, as follows: Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street; Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-924-4131, or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

J. Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Vocational Rehabilitation Services Policy Manual—Applicant/Client Appeal Rights

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Cost is based on 25 fourth level reviews at a cost of \$65 per hour for an estimated four hours per review. The first year is pro-rated to cover four months. The cost is \$1167 the first year and \$6500 each year thereafter.

This fourth level review will require one additional step by Louisiana Rehabilitation Services and will not cause a major impact. Department of Social Services will contract with one individual to review these decisions. Louisiana Rehabilitation Services will provide the money for said contract. The reviewer will be paid at a rate of \$65 per hour. Total expenditure for the contract will be dependent on time required for review on a case by case basis. It is estimated that approximately 20-25 requests for fourth level review of impartial hearing officers decisions might occur on an annual basis.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no proposed impact on local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule will affect any applicant/client or the LRS' agency, if either or both are in disagreement with an impartial hearing officer's report and elects to request the fourth level review.

This fourth level review will require one additional step by LRS and will not cause a major impact. DSS will contract with one individual to review these decisions. LRS will provide the money for said contract. The reviewer will be paid at a rate of \$65 per hour. Total expenditure for the contract will be dependent on time required for review on a case by case basis. It is estimated that approximately 20-25 requests for fourth level review of impartial hearing officers decisions might occur on an annual basis.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no projected impact on competition and employment in public or private sectors.

May Nelson
Director
0004#091

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services
Commission for the Deaf**

State Sign Language Interpreter and Cued
Speech Transliterator Certification Standards
(LAC 67:VII.Chapter 13)

Editor's Note: §1303 contained information which was valid for one year. That time has expired and this outdated section has been deleted.

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act. the Department of Social Services, Louisiana Rehabilitation Services (LRS), Louisiana Commission for the Deaf is adopting revisions to the rules affecting the certification of sign language interpreters and cued speech transliterators.

The purpose of this Notice of Intent is to provide revisions to the rules governing the procedures/standards used in the evaluation and certification of sign language interpreters and cued speech transliterators and list the qualifications of individuals who are eligible for certification at various skill levels.

**Title 67
SOCIAL SERVICES
Part VII. Rehabilitation Services
Chapter 13. State Sign Language Interpreter and
Cued Speech Transliterator Certification
Standards**

§1301. Certification Standards

A. Certification Statement. All individuals who use the title "Sign Language Interpreter" must be certified by and registered with the Louisiana Commission for the Deaf.

1. Recognition of situational specialties will require action of the appropriate subcommittees of the Interpreter Certification Board.

a. Qualifications for Certification

- i. be at least 18 years of age; and
- ii. possess a high school diploma/GED; and
- iii. submit completed application forms and required documentation; and
- iv. pass appropriate examination(s); and
- v. possess no felony or misdemeanor convictions for offenses which directly relate to the duties and responsibilities of an interpreter/transliterator; and
- vi. abide by state laws, rules and regulations; and
- vii. abide by the Registry of Interpreters for the Deaf, Inc. (RID) Code of Ethics; and

b. in addition, applicants shall agree to:

- i. sign a release of information form allowing LCD to gain examination results from examining agency(ies); and
- ii. pay membership and related application fees to contracted examining agency(ies).

c. Application. An individual interested in certification must contact the Louisiana Commission for the Deaf (LCD).

B. Examinations. The State Interpreter/Transliterator Certification Program includes the following:

1. Screening. To begin the certification process, the candidate must successfully pass a screening instrument which will be determined by the ICB as approved by the LCD.

2. Written/Verbal/Performance Components. Upon successful completion of screening, the candidate will be eligible for the written examination(s), which will assess knowledge of the general field of deafness including deaf culture; the profession of interpreting/transliterating for persons who are deaf, deaf-blind or hard of hearing and application of the RID Code of Ethics.

a. Upon successful completion of the written examination(s), the candidate will be eligible for the verbal and/or performance examination(s).

b. The verbal examination(s) may include but not be limited to assessing knowledge of the general field of deafness including deaf culture, the profession of interpreting/transliterating and application of the RID Code of Ethics.

c. The performance examination will assess the candidate's ability to interpret and/or transliterate in the appropriate mode(s).

3. Examination Instrument. The Interpreter Certification Board will determine the examination(s) to be administered as approved by the Louisiana Commission for the Deaf.

4. Examination Dates. Administration of examination(s) will be scheduled by the Interpreter Certification Board.

5. Notification of Examination(s) Results. Individual candidates will be notified of results. Results of any part of the examination(s) will be maintained in confidential files, however, successful completion of the interpreting/transliterating certification program will be a matter of public record.

6. Re-Application. Persons who do not successfully pass any section(s) of the examination may apply for re-examination of said section(s) after a waiting period as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

7. No Shows. Failure to appear at an examination site at the appropriate time, for other than just cause as determined by ICB, will result in being placed at the bottom of the waiting list for the next available date.

C. Certificates

1. Certificate Criteria. The candidate:

a. must successfully complete the written examination(s); and

b. must successfully complete the verbal and/or performance examination(s);

c. must successfully complete a performance examination;

d. will be awarded various levels as outlined in the procedure manual of the Interpreter Certification Board.

2. Certificate Duration/Maintenance. Certificates shall be continuous as long as the individual interpreter meets certificate maintenance requirements as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual. Certificate maintenance requirements shall include but not be limited to professional growth and development, and field work.

a. Certificates shall be terminated when maintenance requirements are not met, but may be restored as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

3. Recognition. Recognition of interpreting/transliterating certificates shall be approved as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

4. Appeals. Individuals who disagree with the examination procedure and/or decisions of the Interpreter Certification Board have the right of appeal as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S.46:2351-2354 and 46:2361-2374.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, Louisiana Commission for the Deaf, LR 17:389 (April 1991), amended LR 18:968 (September 1992), LR 19:304 (March 1993), LR 19:905 (July 1993), LR 21:838 (August 1995), LR 26:

§1303. Repealed

Family Impact Statement

The Department of Social Services, Louisiana Rehabilitation Services, Louisiana Commission for the Deaf hereby issues its Family Impact Statement: Proposed revisions to the rule governing the procedures/standards used in the evaluation and certification of sign language interpreters and cued speech transliterations will have no known impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Additional copies of this entire text of the revised policy manual may be obtained at Louisiana Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA, at each of its nine regional offices, and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

Interested persons may submit written comments for 40 days from the date of publication to May Nelson, 8225 Florida Blvd., Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding the proposed rule.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: State Sign Language Interpreter and
Cued Speech Transliterator Certification Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no implementation cost in order to implement this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increase or decrease in revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no change in the estimated cost and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no proposed change on competition and employment in the public or private sectors.

May Nelson
Director
0004#092

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the State Employees'
Retirement System**

Retiree Election, Purchase of Military Service,
Disability Eligibility and Spousal Consent,
Excess Benefit Plan and Optional Retirement Plan
(LAC 58:I.503, 701, 2513, 2903,
3101-3115, and 3501-3519)

Under the authority of LSA-R.S. 11:515 and in accordance with LSA-R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend and reenact LAC 58.I.503, 701, 2513, and 2903, and to enact LAC 58.I.3101-3115 and 3501-3519. Chapter 31 is being redesignated as Chapter 35. The proposed amendments to the rules change the election rules for retired member trustees, the purchase of military service, certification of continuing eligibility for disability, and instances where spousal consent is required. The proposed enactments establish rules for the excess benefit arrangement and the optional retirement plan. The proposed amendments and enactments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58
RETIREMENT

Part 1. State Employees' Retirement

Chapter 5. Election of Retired Member Trustees

§503. Election Rules

A. A candidate for a position of retired member trustee on the Board of Trustees must be a retired member of the system (not including retired status under the Deferred Retirement Option Plan) by the date on which nominations close. The Board of Trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by their Social Security numbers. All nominations for the Board of Trustees election must be in the office of the Retirement System no later than the second Tuesday in July, close of business (4:30 p.m. Central Daylight Savings Time).

B. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:

Chapter 7. Purchase of Military Service

§701. Purchase of Military Service

A maximum of four years of credit for military service may be purchased by active members who rendered military service in accordance with R.S. 29:411, 412, and 415.1, provided the active member received a discharge other than dishonorable. This provision shall not be applicable to DROP participants (R.S. 29:415.1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:

Chapter 25. Procedures for Processing Disability Applications

§2513. Certification of Continuing Eligibility

A. LASERS may require a disability retiree to undergo a medical examination once each year during the first five years following the disability retirement, and once in every three-year period thereafter until the retiree has reached the equivalent age of regular retirement.

B. LASERS shall schedule the appointment with a State Medical Board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. LASERS must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:

Chapter 29. Spousal Consent

§2903. Instances where Spousal Consent is Not Required

A. The following list sets out those instances where spousal consent is not necessary and will not be required:

1. the spouses are divorced, in which case LASERS needs a certified copy of a Judgment of Divorce;

2. - 3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:

Chapter 31. Excess Benefit Arrangement

§3101. Participation

All retired members and beneficiaries of the system whose retirement or survivor or beneficiary benefits from the system for a plan year have been limited by IRC Section 415 are participants in this plan. Participation in the plan is determined for each plan year. Participation in the plan will cease for any plan year in which the retirement benefit of a member of the system or a survivor or beneficiary is not limited by IRC Section 415.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3103. Benefit

A participant in the plan shall receive a monthly benefit equal to the difference between the participant's monthly retirement benefit otherwise payable from the system prior to any reduction or limitation of IRC Section 415 and the actual monthly retirement benefit payable from the system as limited by IRC Section 415. The monthly benefit shall be subject to withholding for any applicable income or employment taxes. The form of the benefit paid to a participant from the plan shall be the same as otherwise selected by the participant and payable by the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3105. Contributions

A. The system shall determine the required contribution to pay plan benefits for each plan year. The required contribution for each plan year shall be the total amount of benefits payable to all participants and their survivors or beneficiaries and such amount as determined by the system to pay the administrative expenses of the plan and the employer's share of any employment taxes on the benefits paid from the plan.

B. The required contributions as determined in the preceding subsection shall be paid into the plan fund from an allocation of the employer contributions paid to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3107. Excess Plan Fund

Contributions to the plan shall be deposited on a monthly basis in a separate fund established and administered by the system. This fund is intended to be exempt from federal income tax under IRC Sections 115 and 415(m)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3109. Funding Assets

The benefit liabilities of the plan shall be funded on a month to month basis. The fund established hereunder shall not be accumulated to pay benefits payable in future months. Any assets of the fund not used for paying benefits for a current month shall be used, as determined by the system, for the payment of administrative expenses of the plan for future months or paid to the system as an additional employer contribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3111. Non-Assignability of Benefits

The benefits payable under the plan may not be assigned or alienated by a participant, except as otherwise permitted for benefits payable by the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3113. Plan Administration

The system shall have the authority to administer the plan as provided at LRS 11:454.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3115. Retirement Benefit

Any and all payments made pursuant to this plan shall be considered part of a retirement benefit as provided for any member, survivor or beneficiary of the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

Chapter 35. Optional Retirement Plan

§3501. Plan Year

The Plan Year for the Optional Retirement Plan ("ORP") shall be July 1st through June 30th.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR

§3503. Participation

Any unclassified state employee who is appointed by a statewide elected official and whose appointment is subject to confirmation by the Louisiana Senate and any unclassified state employee who is a member of the immediate staff of any such employee, and the chief executive officer of the State Group Benefits Program are eligible to participate in the ORP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3505. Election to Participate

An irrevocable election to participate in the ORP must be made in writing and filed with System within sixty days after the eligible employee begins work. Elections shall be effective as of the date of appointment. If an eligible employee fails to make an election to participate in the ORP within sixty days of appointment, he shall become a member of the defined benefit plan as of the date of appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3507. Employee Contributions

Each participant in the ORP shall contribute monthly the same amount that a regular member would have contributed under LRS 11:62(5)(e). This amount shall be forwarded to the ORP provider, less an administrative cost that shall be established by LASERS. The initial cost shall be set at 1% of employee contributions and shall be adjusted to reflect the actual cost incurred by LASERS to perform this function.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§ 3509. Employer Contributions

Each employer agency shall contribute to LASERS on behalf of each participant in the ORP the same amount that would have been contributed to the defined benefit plan. LASERS shall pay over to the ORP provider an amount equal to the employer's portion of the normal cost contributions as set forth in the actuarial valuation of the retirement system. LASERS shall maintain that portion of the employer's contribution, which applies to the unfunded

accrued liability, which exceeds the employer's portion of the normal cost contribution. LASERS may also retain an additional portion of the employer contributions for any adverse actuarial impact as a result of employees participating in the ORP in accordance with R.S. 11:502.3 B.(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3511. ORP Provider

The System shall provide no more than three providers, selected by a competitive process, for participants to utilize in selecting investment options for the employee and employer contributions that are provided for by the preceding sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3513. Investment Options

The investment options available to participants shall be those as established by the ORP provider and selected by the ORP participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3515. Benefit Obligations

All benefits payable to participants under the ORP shall be the sole obligation of the ORP provider to which contributions are made, and shall not be the obligation of LASERS. Payments to participants or their beneficiaries shall be made by the ORP provider and not LASERS in accordance with the contracts approved for use in the ORP. Participants in the ORP shall not be entitled to any benefits under the defined benefit plan, and once a choice is made by a participant to participate in the ORP, that individual will be ineligible to participate in the defined benefit plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3517. Distribution

Distribution from the ORP to participants shall only be made after termination of employment with the state of Louisiana in accordance with applicable Internal Revenue Code provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

§3519. Sunset

Currently the law provides that the authority to enroll eligible employees in the ORP shall terminate on July 1, 2001. Those eligible employees who enroll or transfer prior to that date shall continue participation in the ORP in accordance with the provisions of the ORP even if the Plan actually sunsets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:

Chapter 35. Repeal of Prior Rules

§3501. Repeal of Prior Rules

All rules and regulations adopted by LASERS prior to the effective date of this rule are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended, LR 26:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 4:30 p.m. through May 30, 2000.

Glenda Chambers
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Retiree Election, Purchase of Military Service, Disability Eligibility and Spousal Consent, Excess Benefit Plan and Optional Retirement Plan

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs to the state or local governmental units are anticipated because of the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These regulations will have no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated cost and/or economic benefits that should effect any persons or nongovernmental group as a result of these rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated impact on competition and employment as a result of these rules.

Glenda Chambers
Executive Director
0004#018

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Highways/Engineering

Roadside Vegetation Management (LAC 70:III.Chapter 7)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to amend a rule entitled "Roadside Vegetation Management," in accordance with R. S.47:820.6. This proposed amendment to an existing rule has no known impact on family formation, stability, and autonomy as described in R. S. 49:972.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 7. Roadside Vegetation Management

§701. Introduction

A. The authority of this manual is given in Act No. 682 of the Regular Session of the State Legislature of 1989. Under normal budgetary conditions, the vegetation control guidelines as described herein should be followed as closely as possible. However, during times of severe budget restraints when state revenues are not available to fund this vegetation control policy, it may be necessary to adjust guidelines to operate within the reduced budget. Items addressed in this manual include: Guidelines and Categories of Roadside Vegetative Maintenance, Herbicides, Wildflowers and Landscaping. Deviation from policies in this manual must have written approval of the DOTD Chief Landscape Architect and the DOTD Chief Engineer. Roadside vegetative maintenance guidelines are intended to accomplish the following objectives:

1. provide for safety of the traveling public;
2. blend the roadside with adjacent land uses;
3. improve aesthetic quality;
4. reduce erosion;
5. increase efficiency of maintenance operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended LR 26:

§703. Guidelines and Categories of Roadside Vegetative Maintenance

A. General Conditions for all Highway Systems

1. DOTD will encourage the growth, planting and preservation of wildflower areas.
2. The District Roadside Development Coordinator shall monitor and coordinate planting of all wildflower areas. He will record locations of the plantings on DOTD Wildflower Inventory form and return them to Headquarters for placement in the master file.
3. Wildflowers may be planted to within 30 feet of the roadway on multi-lane systems and 15 feet on two-lane facilities or the back of the required drainage channel,

whichever is greater. Wildflowers that have naturalized and are 15 feet or more from the travel lane should be allowed to remain. Every effort should be made to mow around them and avoid spraying herbicides unless it is spot treatment to eliminate certain weed species. Wildflowers may be planted in medians providing that they do not interfere with sight distances. Naturalized species occurring in wet areas such as iris, lilies and cattails will be allowed to remain when they do not obstruct drainage. The District Maintenance Engineer will decide when plants are obstructing drainage or sight distances and will take the necessary action to correct the deficiency.

4. Remove litter prior to mowing designated areas. For roads in the Adopt-A-Road program, it would be beneficial to contact the sponsor agency and advise them of the mowing schedule in order for them to assist in the removal of litter prior to the mowing operation.

5. Sight distance at horizontal curves, vertical curves, intersections, railroad crossings, signs, signal lights, delineators, hazard markers and warning devices should be clear of obstructions. Sight distance can be obtained on the inside of horizontal curves by mowing the area 30 feet from the edge of the surface or from the edge of the surface to the right-of-way line or from the edge of the surface to the fence line, whichever is the shortest distance. Transition should begin 150 feet prior to the beginning and end of the curve. All vegetation shall be maintained to permit clear visibility for all regulatory traffic signs. Trim or remove trees that interfere with proper sight distance or side and overhead clearance.

6. All vegetation shall be maintained to permit clear visibility for all regulatory traffic signs. Trim or remove trees that interfere with proper sight distance, or side and overhead clearance.

7. All dead trees or leaning trees with weakened root systems within DOTD rights-of-way which may endanger traffic by falling across the highway shall be removed and disposed of in a timely manner. Stumps within a mowable area are to be removed to ground level with a stump removing machine. If the stumps are located in an area designated not to be mowed, they may remain but should be cut to within 5 inches of ground level.

8. In order to ensure proper drainage, mow to the top of backslopes. When ditch bottoms are inaccessible and impeding drainage, treat unwanted vegetation with an approved herbicide labeled for use over water.

9. Mowing heights should be 5-6 inches; shorter cutting heights may cause stress on the vegetation and damage to equipment. Do not mow during long rainy spells and when the right-of-way is too wet. Mowing during these times will cause rutting and possibly cause erosion in the future.

10. Observe and initiate appropriate erosion control procedures when necessary.

11. General herbicide treatment is to be confined to an area of approximately 30 foot widths from the edge of all roadways where right-of-way is available or to the back of the required drainage channel to ensure proper drainage. Spot treatment is allowable beyond this area.

12. Treat pavement edges, paved medians, riprap areas and areas around delineators, guardrails and signs with appropriate herbicide. Treat designated areas of roadsides with appropriate herbicide two weeks prior to mowing cycle to eliminate noxious grasses and weeds. Some areas may need hand trimming because of herbicide restrictions. Prior to treating rights-of-way on federally owned lands, obtain the proper authorization from the federal agency having jurisdiction and make herbicide applications in accordance with their guidelines. Do not spray herbicides in designated or native stands of wildflowers unless absolutely necessary to control weed infestation. When treating unwanted vegetation in wildflower areas, every effort should be made to spot treat the unwanted vegetation.

13. When practical, every attempt should be made to blend the highway right-of-way with the adjacent land uses. For example, forest lands should extend into the right-of-way, subject to clear zone requirements, and rights-of-way adjacent to crop and pasture lands should remain relatively open.

B. Urban (Highway Systems) Urban shall mean within the recognized limits of small towns, villages and municipalities as well as incorporated areas of cities.

1. Maintain all rights-of way by using a minimum cutting height of five inches. A maximum height of 8 inches will be allowed prior to mowing.

2. Remove all dead ornamental plants and replace during the proper planting season with appropriate type of plant.

3. Wildflowers may be planted in large interchange areas and shall not be mowed until the mature seed has set. Utilize the 5-inch minimum mowing height up to the limits of the wildflower planting area. Wildflowers which will attain a height of 24 inches or more will not be permitted in narrow medians, or in sight triangles where they will interfere with adequate sight distances. General Conditions, §703.A.3 outlines other facts concerning wildflower plantings.

4. Transition mowing standards between urban and rural categories with a long, smooth, flowing line. This transition should occur over a distance of approximately 2,000 feet.

C. Rural

1. Interstate

a. Begin mowing operations, except wildflower areas once vegetation has reached approximately 12 inches in height. Maintain right-of-way using a 5-inch cutting height.

b. Mow all mowable areas, except wildflower areas a minimum of three times each year. Medians are to be mowed in their entirety each mowing cycle except where wildflowers, shrubs or trees are present. Weather permitting, these mowings should occur in May, August and in late October or November.

c. Wildflowers will be permitted as in □703.A.3 under Urban Systems. Maintain the to 18 inch maximum vegetation height up to the limits of the wildflower planting area. Wildflower areas are allowed to naturally reseed within 15 feet of travel lane.

d. Mow wildflower areas after they have gone to seed. For spring blooming varieties this should normally occur in May and fall blooming plants should be mowed in late October or November. The Roadside Development District Coordinator should be consulted to determine appropriate timing for mowing wildflower areas

e. Remove all dead ornamental plants as in §703.B, Urban Systems and replace during the proper planting season with appropriate type of plant.

f. Herbicide applications are to be made in accordance with General Conditions, §§703.A.11 and 12.

g. Maintain frontage roads in the same manner as primary system.

h. Weight Enforcement Scale areas are to be mowed in their entirety each mowing cycle using a 5 inch mowing height. Rest areas are to be mowed in accordance with EDSM No. IV.3.1.2.

2. Primary Multi-Lane And Two Lane

a. Begin mowing operations once vegetation has reached approximately 12 inches in 0 height, unless herbicides have established desirable vegetation and rendered mowing unnecessary. Mowing heights are to be 5 inches.

b. Mow a 30 foot strip from the edge of the roadway surface to the top of the backslope to facilitate drainage, or to the right-of-way on multi-lane and two-lane roadways. Medians less than 80 feet in width are to be mowed in their entirety each mowing cycle. In medians which have been allowed to revegetate naturally, mow a 30-foot strip from the edge of the roadway surface or to the back edge of the ditch. Mowing should be accomplished a minimum of three times per year.

c. Wildflowers will be permitted as in □703.A.3, Urban Systems.

d. Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seed has set. In areas which have been allowed to revegetate naturally, annually mow a 40 foot strip to eliminate woody growth.

e. Mow interchange areas to same standards as roadways.

f. Herbicide applications are to be made in accordance with General Conditions, □703.A.11 and 12.

g. Maintain frontage roads in the same manner as

3. Secondary and Farm-to-Market System

a. Begin mowing operations once vegetation has reached a 12-inch height. Mowing heights are to be 4 - 6 inches.

b. Mow a 15-foot strip from the edges of the roadway surface or to the back side of the ditch to facilitate drainage.

c. Herbicide applications are to be made in accordance with General Conditions, □703.A and 11 and 12 or as determined by District personnel based on existing conditions.

d. Annually mow entire mowable area in the fall, normally in late October or November after wildflowers have bloomed and the seed has set to prevent excessive woody growth.

D. Intersections (All Systems)

1. Right-of-way permitting, mow to the sight distance transition limits specified herein.

2. Mow all flare areas at junctions for sight distance.

E. Mowing Exceptions

1. Areas where individuals or businesses mow right-of-way along their property.

2. Areas where appropriate herbicide treatment can keep vegetation within the standards.

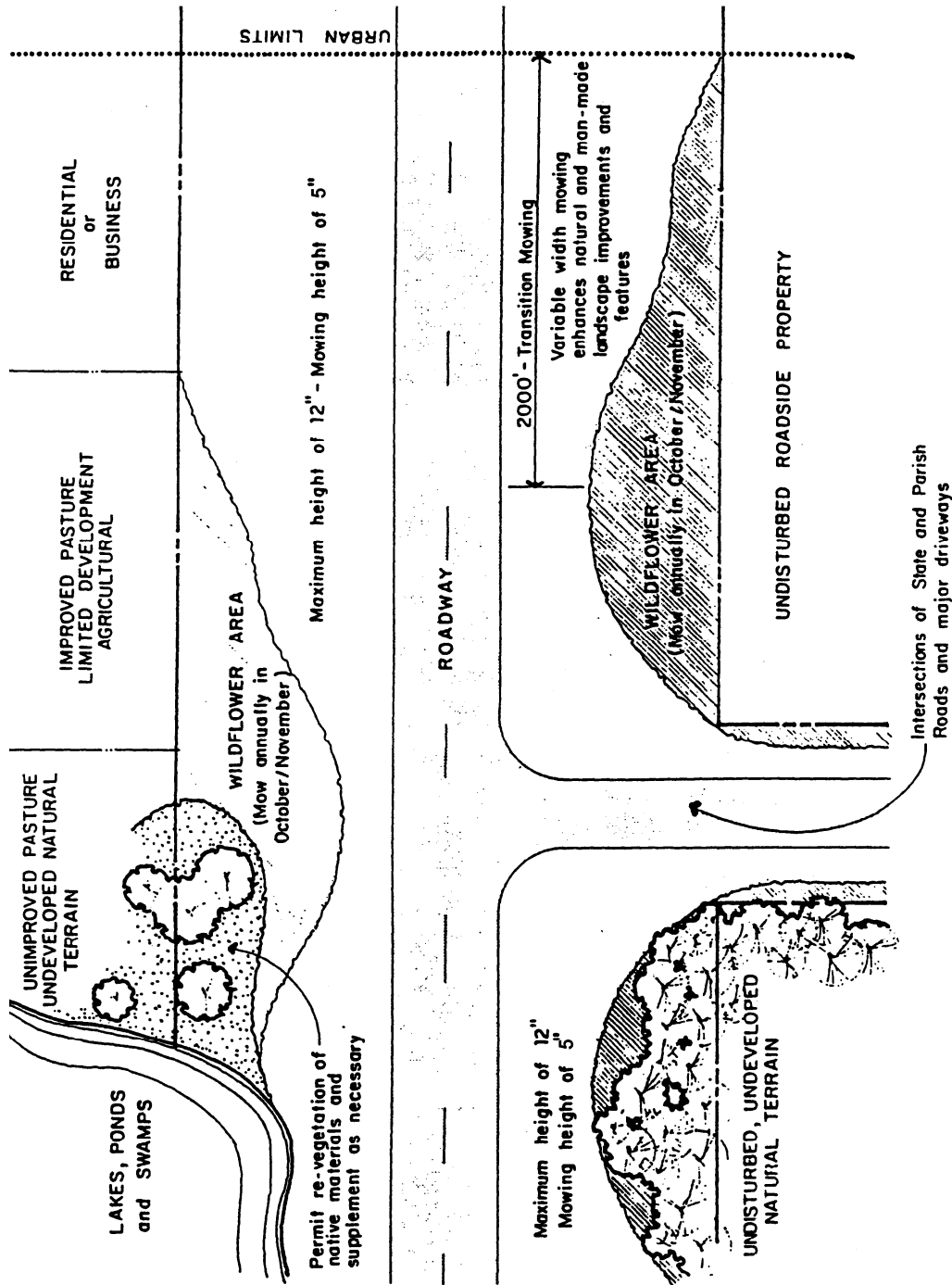
3. Areas that are not applicable, i.e., wildflower areas.

4. Areas where seedlings are planted and/or permitted to grow.

5. Rest areas and tourist information centers, on the interstate system, are to be maintained by the caretakers in a lawn-type condition.

6. Unmowable areas within defined mowing limits.

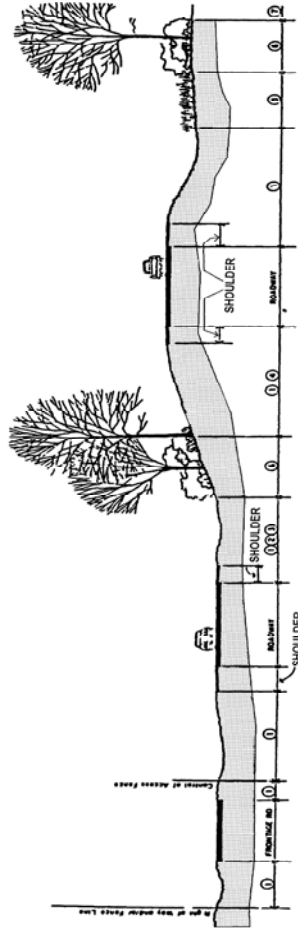
F. General Vegetation Management Plan



7

GENERAL VEGETATION MANAGEMENT PLAN

G. Typical Vegetation Management Section—
Rural, Interstate

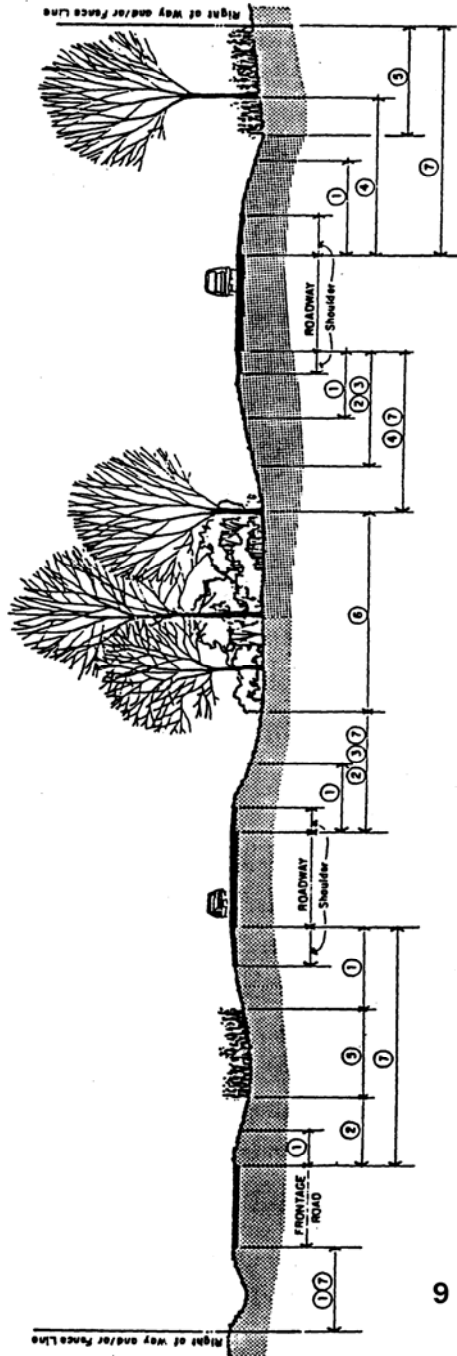


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- ① When vegetation reaches a height of 12" mow all movable areas of the right-of-way/tree line to the line or fence line to fence line). Mowing height should be 5". Medians are to be mowed in their entirety each mowing cycle except when wildflowers or native shrub and or trees are present.
- ② General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
- ③ Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
- ④ Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 50' from the edge of the roadway.
- ⑤ Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
- ⑥ Area of natural revegetation - Do not mow in this area.
- ⑦ Mow a 7'-0" wide strip along the right-of-way line or fence line where feasible.

**TYPICAL VEGETATION MANAGEMENT SECTION
RURAL, INTERSTATE**

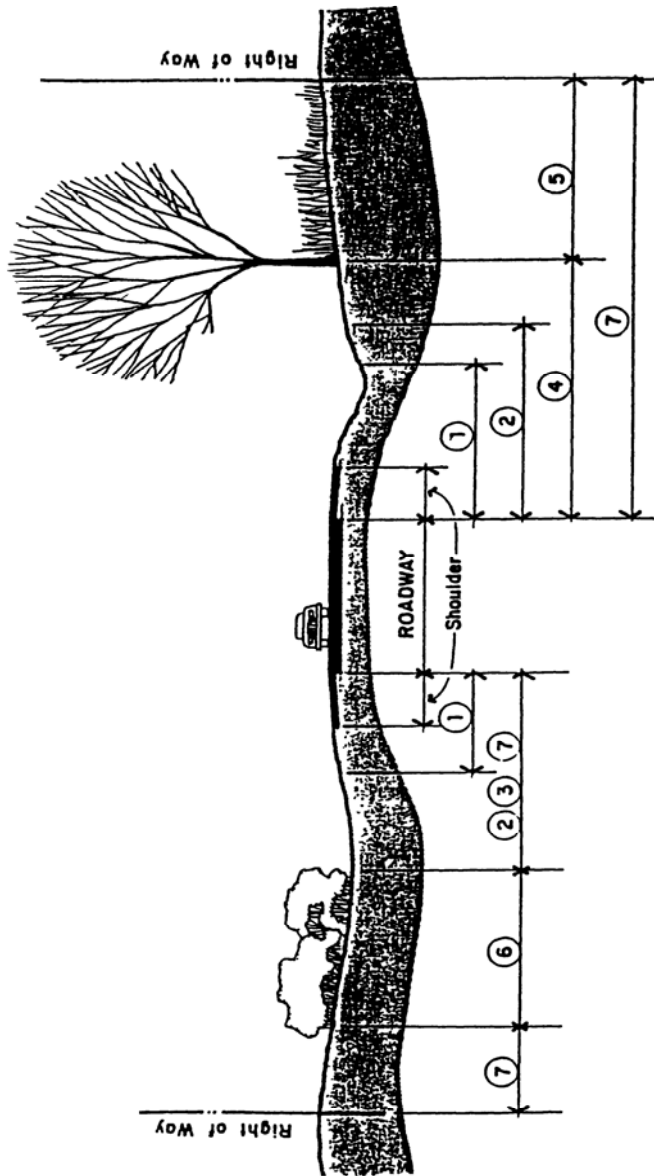
H. Typical Vegetation Management Section—
Rural, Primary Multi-Lane



- ① When vegetation reaches a height of 12", mow a 30' strip from the edge of the roadway surface or to the top of the backslope to facilitate drainage. Mowing height should be 5". Medians less than 80' wide are to be mowed in their entirety each mowing cycle unless wildflowers are present. If wildflowers are present, mow around them. Delay mowing the wildflower area until after they have gone to seed. Along frontage roads, mow a 7' wide strip from the edges of the roadway surface or to the back side of the ditch to facilitate drainage.
- ② General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition I-12 and herbicide chapter for additional information.
- ③ Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
- ④ Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.
- ⑤ Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
- ⑥ Area of natural revegetation - Do not mow in this area.
- ⑦ Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set. In areas which have been allowed to revegetate naturally, mow a 40' wide strip, or to the limits of shrubs and trees.

**TYPICAL VEGETATION MANAGEMENT SECTION
RURAL, PRIMARY MULTI-LANE**

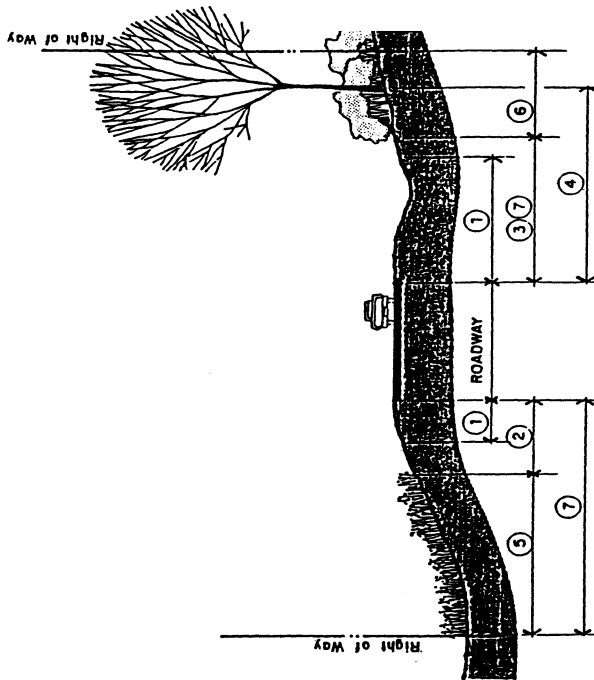
I. Typical Vegetation Management Section—
Rural, Primary Two Lane



- ① When vegetation reaches a height of 12", mow a 30'-wide strip from the edge of the roadway surface or to the top of the backslope to facilitate drainage. Mowing height should be 5". If wildflowers are present, mow around them. Delay mowing the wildflower areas until after they have gone to seed.
- ② General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
- ③ Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
- ④ Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.
- ⑤ Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
- ⑥ Area of natural vegetation - Do not mow in this area.
- ⑦ Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set. In areas which have been allowed to revegetate naturally, mow a 40' wide strip or to the limits of shrubs and trees.

**TYPICAL VEGETATION MANAGEMENT SECTION
RURAL, PRIMARY TWO LANE**

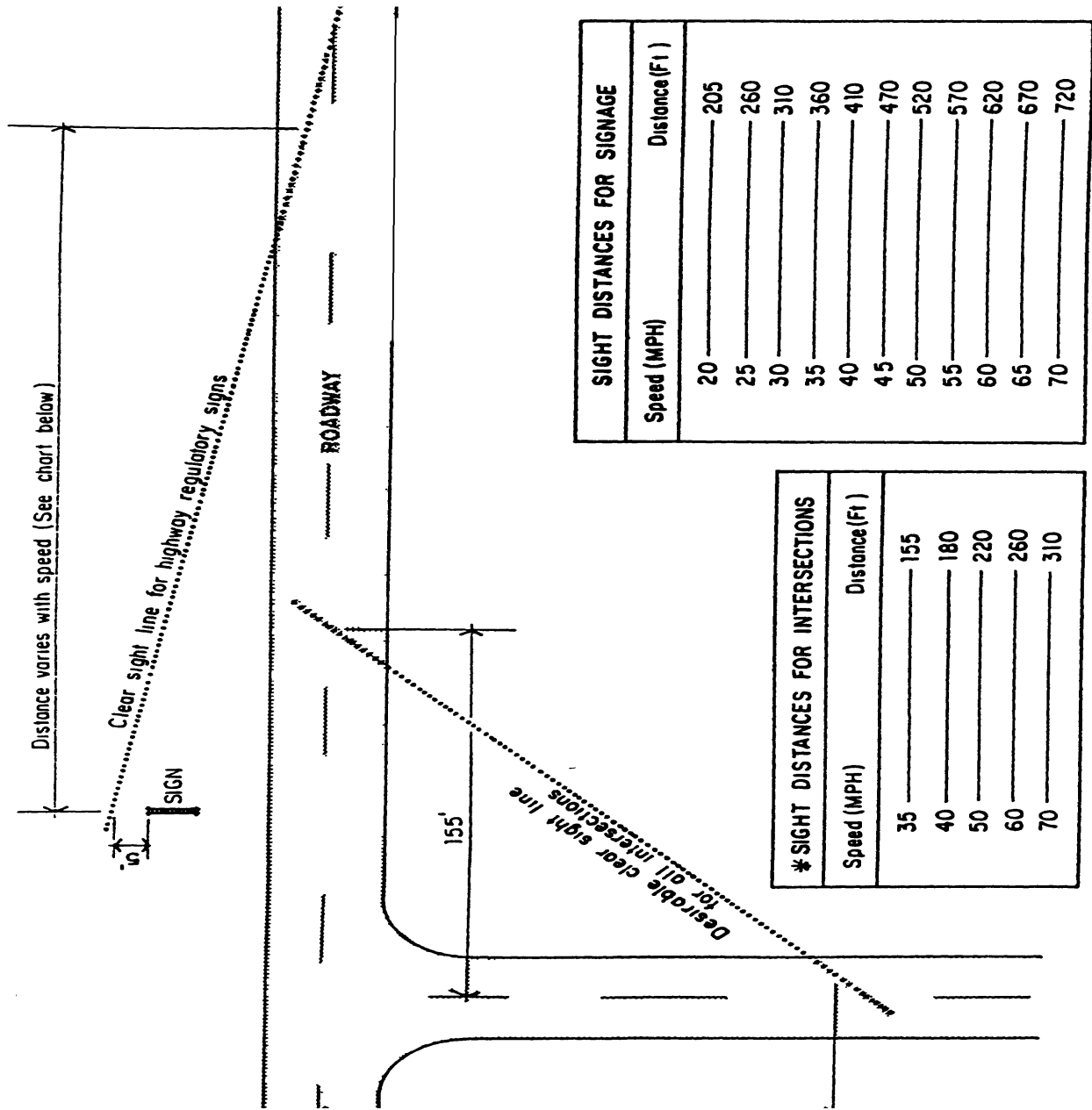
J. Typical Vegetation Management Section—Rural, Secondary and Farm to Market



- ① When vegetation reaches a height of 12", mow a 25' strip from the edge of the roadway surface or to the back edge of the ditch to facilitate drainage. Mowing height should be 5".
- ② General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
- ③ Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
- ④ Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.
- ⑤ Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
- ⑥ Area of natural revegetation - Do not mow in this area.
- ⑦ Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set.

**TYPICAL VEGETATION MANAGEMENT SECTION
RURAL, SECONDARY and FARM to MARKET**

K. Sight Distances for Signs and Intersections



AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), LR 26:

□705. Herbicides

A. Laws and Regulations. The Federal Insecticide and Rodenticide Act as amended in 1972 (FIFRA) requires individuals who apply restricted use pesticides to be certified applicators. National standards for the certification of applicators are found in Title 40, Part 171 of the Code of Federal Regulations. State standards for certification of applicators are found in the Louisiana Pesticide Law, Chapter 21 of Title 3 of the Louisiana Revised Statutes, Rules and Regulations promulgated under the authority of the Louisiana Pesticide Law have been published in the Louisiana Register further delineating the requirements for certification and recertification. The Louisiana Department of Agriculture has been designated by the U.S. Environmental Protection Agency as the agency responsible for the enforcement of FIFRA within the State of Louisiana. The Department is also responsible for the enforcement of the Louisiana Pesticide Law. The Louisiana Cooperative Extension Service, by cooperative agreement, is responsible for the training necessary to become a certified applicator.

B. General

1. Herbicides have played an important part in the management of the roadside right-of-way the past several years, particularly the selective spraying program. This program is used predominately to control Johnson grass and other weeds while favoring the growth of Bermuda grass which requires little mowing.

2. Herbicides have also been used successfully on hard surfaced shoulders, cracks in paved traffic islands and revetments under guardrails, at bridge ends, ditches and other areas which are impossible to mow. Since chemicals that are used as herbicides require that safety precautions are observed, the Roadside Development Coordinator in the District should be in complete charge of their use. The operators on the spray trucks are required to be licensed by the Department of Agriculture. The Roadside Development coordinator is familiar with brand names, different types of chemicals, calibration of the rig, pumps, etc., has been licensed and should be consulted in detail for chemical herbicide work.

3. In order to realize the maximum output from both mowing and spraying operations, it is important that the Parish Maintenance Superintendent and Roadside Development Coordinator manage these operations together. Correct timing will result in good results and a savings of funds. Two mowings per season and two sprayings per season are generally enough for most roadsides if they are coordinated.

4. Department of Transportation and Development has been using herbicides for approximately 20 years. The main reason for using herbicides is because it is a safe economical means of controlling vegetation resulting in cost savings for the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended LR 26:

§709. Factors of Herbicide Application

A. Herbicide Types

1. Soil-active (residual) herbicides are active in the soil and stop plant growth of germinated seeds and roots in the following manner. Soil-active herbicides are moved into the root zone by water. The herbicide is absorbed by the root system and translocated throughout the plant affecting plant growth processes. Visual effects should begin to appear in several days. The swiftness of the herbicide action is dependent on soil type, rainfall, plant species and rate of herbicide application. Soil-active herbicides can be applied to the soil in the winter prior to or shortly after the emergence of vegetation in spring. Vegetation must be present; never apply herbicide to already bare ground.

2. Contact herbicides halt visible plant growth at least for a short time in the following manner. Contact herbicides are absorbed by the foliage and transported throughout the plant, affecting plant growth processes. Several days are usually required for the effects to appear. Some of these herbicides may also have a short period of activity in the soil. Vegetative diversity may require a combination of chemicals to be used if broad-spectrum control is desired.

B. Desired Vegetation Control

1. Bare Ground or Complete Vegetation Control. Soil-active herbicide at the proper rate and time will normally provide complete vegetation control. Bare ground vegetation management may be desirable in areas where it can be economically maintained or where plant growth creates fire or other safety hazard or decreases maintenance efficiency. To maintain a bare ground condition after the first year application, spot-treatment may be necessary. Application of an excessive quantity of chemical is not economical and may result in damage to desirable vegetation. This type of treatment should only be used in storage yards.

2. Selective Weeding. Selective weeding is the use of a herbicide or a combination of herbicides for the control of selected species and does not permanently harm desired vegetation. Herbicides used for this type of control may be applied either as a pre-emergence (before plants emerge from seed) or a post-emergence (after plants emerge from seeds) application.

3. Chemical Mowing. This is the practice of using herbicide to control undesirable vegetation in close proximity to valuable plants. This procedure can be used to control vegetation under fences and guardrails, along drainage ditches and in landscaped areas when near desirable vegetation.

C. Type and Species of Plants to be Controlled

1. Proper selection of herbicides and their application rates are dependent on the type and species of vegetation to be controlled as well as the condition of the plant. Some plant species are resistant to certain herbicides. The condition of a plant may be either active growth or dormancy. It may be a seedling or a mature plant or it may be budding, leafing, flowering or fruiting. All of these conditions should be considered when deciding where and when to use or not to use herbicides. For example, the best condition to apply a contact herbicide to many plants is when they are about to produce a seed head or fruit (e.g., the "boot" stage of Johnson grass). In general, seedling plants are easier to control than older more established plants. Plants are categorized as either annual, biennial or perennial.

2. Annual and Biennial Plants. These plants originate from seed. Annuals complete their life cycle in one year (seed to seed); biennials require two years to complete their life cycle. A contact treatment is generally sufficient in controlling seedlings. Annual weeds around signs and other appurtenances can be controlled with contact treatment or in combination with a pre-emergence herbicide.

3. Perennial Plants. These plants have an extensive root system and live from year to year. Perennials also produce seeds to ensure survival of their species. Specific herbicides, whether contact or soil active, are usually required for their control.

D. Soil Type. Depending on soil type, the proper application rate yields good vegetation control. Soil-active herbicides are more active in soils that are low in clay or organic matter because of the reduced absorbency of these soils. Therefore, the application rate may be reduced. In soils that are high in clay or organic matter, herbicide adheres to the soil particles and is not available to the roots of the plant. Consequently, the rate of herbicide application may need to be increased. The acidic/alkaline nature of the soil can also affect the performance of a herbicide. For example, in relatively acidic soils, OUST decomposes at a faster rate than it does in more alkaline soils. In loose or sandy soils a soil-active herbicide may move off target easily carried, by either water or wind.

E. Wind Velocity

1. Wind will disturb the spray pattern and blow the chemical away from the target area; high winds can blow it several feet away. The wider the pattern the greater the effects of wind distortion. It is best to spray before wind velocity rises. The proper drift control agent will help reduce drift. If wind velocity rises too high, and the pattern cannot be kept on target, then spraying should be discontinued.

2. For purposes of deciding whether to spray and for record-keeping, carry a wind gauge in the spray unit to determine wind speed. Highest winds permissible will be 10 miles per hour.

F. Humidity. Relative humidity is the percentage of moisture in the atmosphere relative to the maximum amount which the atmosphere could hold. Generally, the higher the humidity at the time of application, the more rapid the uptake of contact applied herbicides. However, when humidity is at or approaching 100 percent, rainfall will most likely occur and the herbicide will be washed from the leaf surface. Consequently, herbicides should not be applied when rainfall is imminent. Conversely, if the humidity is

approximately 60 percent or lower, the longer it may take the herbicide to become active.

G. Rainfall

1. Rainfall affects chemical control of vegetation. It is a vehicle for movement of soil-active herbicides into the root zone of plants. Soil-active chemicals must be in solution before they can enter the root system of plants. Excessive water may reach the soil-active herbicide below the root zone of the plant resulting in poor control. Moisture from rainfall, thawing cycles and snow on the ground may prevent the herbicide from entering the soil in sufficient quantities to achieve the desired degree of control. Moreover, excessive rainfall may lead to serious herbicide damage to areas outside of the target area.

2. Do not spray contact herbicides during rainfall or if rainfall is likely to occur within six hours after application. Rain will wash the herbicides off the leaves before it can be absorbed by the plant. After a rain, dust on the leaves will have been washed off and contact herbicides are more easily absorbed by the plant. Allow the foliage time to dry after a rain before spraying since wet foliage may yield poor results.

H. Temperature. Temperature affects the results of vegetation control with herbicides. Do not use herbicides when the soil is frozen, when rain or snow is falling, or when there is snow on the ground. High temperatures during the summer months may cause many plants to become semi-dormant. When this occurs the plants will not absorb the herbicide adequately.

I. Water Quality. Use good clean water to mix herbicides, as impurities in the water may deactivate the herbicide. Another reason for using clean water is that sand or clay particles may damage the pump, solenoids and nozzles of the spray rig.

J. Mixing, Timing and Application

1. Mixing and application are to be in conformance with the manufacturers' recommendations. All precautions issued by the manufacturer are to be taken into account and followed.

2. Timing for spraying of herbicides will be coordinated and determined by the roadside development district coordinator and the parish maintenance superintendent.

3. A spraying report is to be filled out by the herbicide applicator when applying herbicides to the roadsides.

4. Following is a chart of herbicides, application rates, times to spray and pertinent comments concerning their uses.

K. Herbicide Rate Chart

Product Name	Rate Per Acre	500 Gal. Tank Mix	1,000 Gal. Tank Mix	Nov. & Dec.	Jan & Feb.	March & April	May & Oct.	Comments
Oust	1 oz. 1 □ oz. 2 oz.	16 oz. 24 oz. 32 oz.	32 oz. 48 oz. 64 oz.		X X			2 oz. Oust to be used where Oust is required to be used in Nov. & Dec., 2 oz. to be used in Jan. & Feb. in areas where there is a heavy concentration of Johnson grass, 1 □ oz. per acre should be used. On moderate stands of Johnson grass, 1 oz. should be used after Johnson grass has almost been eliminated. Oust should not be used where Bahia is predominant.
2-4-D Roundup	2 qt. Pro 1 pt.	8 gal. 2 gal.	16 gal. 4 gal.			X	X X	Combination of 2-4-D and Roundup should be used only in southern part of state where 2-4-D is not restricted and when temperature reaches 75 degree or above. Can be used around signs and guardrails at rate of 2 qt. 2-4-D and 1 qt. Roundup per acre. DO NOT SPRAY THIS RATE ON SLOPES.
Garlon 3A Roundup Pro	1 qt. 4 gal. 1 pt. 2 gal.	8 gal. 4 gal.			X	X		Only to be used in northern part of state where 2-4-D is restricted and when temperature reaches 75 degree or above. Can be used around guardrails and signs at the rate of 1 qt. Garlon and 1 qt. Roundup.
M.S.M.A. 2-4-D	2 qt. 8 gal. 2 qt.	16 gal. 8 gal.	16 gal.		X	X		Only to be used in southern part of state where 2-4-D is not restricted and on very rare occasions where Roundup will not do as good a job and where there is a very thin stand on Bermuda grass.
M.S.M.A. Garlon 3A	2 qt. 8 gal. 2 qt. 4 gal.	16 gal. 8 gal.			X	X		Only to be used in southern part of state where 2-4-D is not restricted and on very rare occasions where Roundup will not do as good a job and where there is a very thin stand on Bermuda grass.
Campaign	48 oz. 6 gal.	12 gal.			X	X		Can be used in southern section of state in lieu of 2-4-D and Roundup mixture. When heavy concentration of vines and woody plants add 1 pint of 2-4-D.
Escort	□ oz.	8 oz.	16 oz.			X	X	Can be used where 2-4-D is restricted.
Rodeo	1 pt. 1 qt.	2 gal. 4 gal.	4 gal. 8 gal.			X	X	To be used on slopes and in water where Bermuda grass should not be destroyed. To be used under bridges and in water for complete control of vegetation.
Roundup Pro	2 qt.	8 gal.	16 gal.			X	X	To be used on shoulders, around guardrails and signs when temperature reaches 70 degree or above. Can be used close to trees.
Hyvar XL	10 gal. 120 gal	320 gal.	X	X				Only to be used in storage yards and in places where complete soil sterilization is required. Can not be sprayed close to trees where there is danger of runoff.
Surfactant	8 oz. 1 gal.	2 gal.						To be used in all tank mixes except OUST alone Hyvar XL or Roundup Pro.
Poly Vinyl	2 oz. 1 qt.	2 qt.						To be used in all tank mixes where fixed booms are used.

Recommended Speed and Pressure on Cibolo Sprayers, Guide to Calibration	Pressure 28 lbs. 10 mph	Rate Tank Mix Gal. Per Acre 31.25	Acres 500 Gal. Tank Mix 16 Acres	Acres 1000 Gal. Tank Mix 32 Acres
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L. Daily Herbicide Spraying Report

**DAILY HERBICIDE SPRAYING REPORT
DISTRICT 05**

DATE

Parish _____ **Route No.** _____ **Control Section** _____ **% Complete** _____

Location _____

Certified Applicator: _____	<i>Type of Spraying: (check)</i>	<i>Weather:</i>
License No. _____	Contact _____	Sunny _____
Others Worked: _____	Absorbed _____	Partly Cloudy _____
_____	Selective _____	Overcast _____
_____	Root Absorbed Plus Contact _____	Rain _____
_____		Temperature _____
Hours Worked: _____	<i>Wind:</i>	
Truck No. _____	Wind Speed	Wind Direction
Spray Equipment # _____	Shot 1 _____	<i>Soil Moisture:</i>
Pressure _____	Shot 2 _____	Wet _____
GPA _____	Shot 3 _____	Med. _____
	Shot 4 _____	Dry _____

MATERIALS	EPA REGISTRATION NO.	RATE/ACRE	TOTAL USED AT END OF DAY
ARSENAL	242-346		
CAMPAIGN	534-351		
ESCORT	352-439		
FUSILADE DX	10182-367		
GARLON 3A	62719-37		
GARLON 4	62719-40		
HYVAR XL	352-346		
KRENITE S	352-395		
MSMA	19713-42		
OUST	352-401		
RODEO	524-445		
ROUNDUP PRO	524-475		
2,4-D AMINE (RUP)	9779-263		
DRIFT CONTROL			
SURFACTANT			
WATER			
ACRES SPRAYED			

Unusual Observations Along Route:

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended LR 26:

§711. Wildflowers

A. General

1. Louisiana and the Department of Transportation and Development are embarking on a statewide plan for the planting and preservation of wildflowers along its rights-of-way. The Department of Transportation and Development and Louisiana Project Wildflower are working very closely evaluating equipment, planting methods and herbicide operations to produce maximum stands of wildflowers.

2. It shall be the policy of the Department to encourage the growth, planting and preservation of wildflowers in order to provide a natural setting for the traveling public. Mowing and spraying operations shall be coordinated and timed to enhance the wildflower population and provide a naturally appealing roadside appearance.

B. Establishment of Wildflower Areas

1. One of the best methods of establishing wildflower areas is by observing and documenting native stands in order that they may be preserved for future generations. To this end, a form has been developed in order for the traveling public to report and document any sightings of wildflowers along the state's rights-of-way. These forms will be available in all District offices of the Department of Transportation and Development and Louisiana Project Wildflower will distribute these forms at all of their meetings.

2. Another method would be to stockpile topsoil which has wildflower seed present and transport this soil to desired locations. This method allows some seed to remain in place and allows the establishment of new stands in other locations.

3. Other means of collecting wildflower seed is by cutting the wildflowers with a sickle mower and gathering the cut flowers laden with seed. These cuttings can then be transported to another location and spread, thus establishing a new stand of wildflowers.

4. The method which is being practiced more frequently is by direct planting. Wildflower seeds are being commercially grown and although expensive, they are producing desired results with less effort than other means.

5. Commercial seed suppliers are able to supply individuals with a mix of several species of seeds or in lots of individual species of seed. Once a selection of types of seed has been determined, it is necessary to establish a planting rate based on the amount of Pure Live Seed (PLS). PLS is the amount of purity multiplied by the percent of germination. The PLS in a lot of seed can be obtained from the supplier. In wildflower planting a rate of 36 to 45 seeds per square yard is normally adequate. Areas that are to be experienced by pedestrians should be planted at a rate possibly 1.5 greater than this. These rates are broad guidelines and should be adjusted to obtain the desired effect. A partial listing of commercial wildflower seed sources is contained herein for informational purposes.

6. Planting times will vary according to the conditions the seeds are being planted. Generally wildflower seeds are planted between late fall and spring, although some can be

planted during the summer providing supplemental irrigations is available.

7. There is a certain amount of risk associated with planting the seed in late fall. Rain and warm temperatures could cause the seed to germinate prematurely and be killed by a freeze.

8. Site selection is one of the most important factors in establishing new stands of wildflowers. Be sure to establish the site conditions required to grow certain species. Some may require full sun, others partial shade, still others may require constantly moist soil and others well drained soil. Sites that are relatively weed free with existing stands of shorter grass works best. On sloping sites consideration should be given to seeding grass along with the wildflowers. In some cases, it may be necessary to use a fiber mat to hold the soil and seed in place until germination.

9. Wildflowers have a wide tolerance of soils and PH (Acid/Alkaline) conditions. Wildflowers do best in soils of low fertility. High nitrogen soils only encourage the growth of weeds thus causing competition for growth and slowing of the wildflowers. If a site is void of nutrients, it may be wise to consider the use of a low nitrogen fertilizer such as 5-10-10.

10. Soil preparation is not absolutely necessary since most wildflower seeds can be broadcast over undisturbed ground. If this method is followed, you can expect some delay in germination and some of the seed can be displaced by the elements or eaten by birds and rodents. The key element in planting wildflower seeds is to have good soil to seed contact.

11. One method of insuring soil, seed contact is by mowing the area to be planted as close as possible and remove grass clippings and weeds by raking the entire area. Then lightly till the site with a flail motor, roto tiller, harrow, discs or a weighted section of chain link fence pulled behind a tractor. It is important not to till the ground too deep since this will encourage the growth of any weed seed which may be present in the topsoil. A maximum depth of one-half inch is sufficient. In areas which have a strong weed population, it is necessary to treat the unwanted vegetation with a herbicide and removing the dead plants prior to disturbing the ground surface.

12. The size of the area to be seeded will determine the type of equipment best suited. On small areas hand sowing or a small mechanical device should be sufficient. In large areas mechanical seeders properly calibrated should produce desired results more efficiently and effectively. When planting fine seed, it may be necessary to mix an inert carrier with the seed to obtain better distribution. Recommended inert carriers are sand or vermiculite. The recommended ratio for these carriers is 2:1 sand to seed.

13. Once the seed has been planted, it must be covered to maximum depth of 1/8 to 1/4 of an inch. This can be accomplished by lightly raking the seed in with a hand rake for small areas, or by using a drag mat behind a tractor for larger areas. If a drill seeder is used, firm the soil after drilling with a cultipacker to insure proper seed/soil contact.

14. Wildflower seeds need moisture for germination and growth. Supplemental watering may be necessary if there is not adequate rainfall. As the planting becomes

established, watering may be reduced. While it is important for the wildflowers to receive water it is equally important to provide adequate drainage for certain species. Germination will vary from species to species and from seed to seed within the same species. Time periods for germination will also vary from as little as several days to as slow as several years.

15. Once the wildflowers have finished blooming and set seed, the entire area should be mowed. Mowing the area will help to scatter the seed for the following years' growth.

Wildflower areas should be mowed to a height of 4 - 6 inches and should be accomplished in October and November. Waiting longer than this to mow generally results in very wet conditions which could cause more harm than good when attempting to mow.

16. If a strong weed or invasive grass population has established itself in the wildflower areas, it may be necessary to treat with a contact herbicide or translocated herbicide to kill the root system in order to give an advantage to the following years stand of wildflowers.

C. Louisiana DOTD Wildflower Inventory

LOUISIANA DOTD WILDFLOWER INVENTORY

DOTD DISTRICT:		* CONTROL SECTION:	
PARISH:		HWY. ROUTE NO.:	
MILEPOST FROM:	TO:	ACRES:	
PLANTED:		DATE PLANTED:	
NATURAL:		DATE REPORTED:	
FLOWER TYPES (COMMON AND SCIENTIFIC)			
LOCATION DESCRIPTION (USE ANY LANDMARKS AND INCLUDE WHICH SIDE OF THE HIGHWAY HAS THE WILDFLOWERS)			
SKETCH AVAILABLE (YES/NO):			
SPONSOR		REPORTED BY	
NAME:		NAME:	
ADDRESS:		ADDRESS:	
CITY, ZIP:		CITY, ZIP:	
PHONE:		PHONE:	

* INFORMATION MAY BE OBTAINED FROM RESPECTIVE DISTRICT OFFICES

PLEASE RETURN COMPLETE FORMS TO: DOTD MAINT. ENGINEERING ADMINISTRATOR
 LA. DEPT. OF TRANSPORTATION & DEVELOPMENT
 P.O. BOX 94245
 BATON ROUGE, LA. 70804-9245

M15-1

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), LR 26:

§713. Landscaping

A. General

1. Highway landscape design should begin with an analysis and the inventory of the landscape features in order to identify, evaluate and locate the features to be conserved, further developed and/or incorporated in the highway corridor.

2. Careful and proper landscaping of the right-of-way should result in the conservation, enhancement and effective display of the urban and rural countryside through which the highway passes. A properly landscaped highway will conserve the historical features and natural landscape assets while improving the aesthetic and functional quality of the highway.

3. There are two general classes of vegetation along highways: turf, such as grasses and legumes, and taller growing types consisting primarily of woody plants which are shrubs and trees. This section is devoted to the planning and design of the taller growing plants as seen against the foundation of turf. Woody plants create a three-dimensional effect in the landscape and require special design considerations. Natural growth that exists may provide part or all of the desired planting effects in rural areas. Where possible, the retention of desirable natural existing growth is extremely important and requires consideration early in design. Planting is important along highways on new location and many times it may be more important along reconstructed highways on existing location because of restricted right-of-way and adjacent development.

4. The motorist should be able to view complete vistas and changing scenes in scale with the travel speed. Widely spaced plantings of individual trees or shrubs create a spotty and disturbing effect. Massed plantings are the form and texture of the landscape viewed at highway speeds. Tree plantings should be set back from the traveled lanes, not only for safety but also to insure spatial continuity and the strong visual effect of a wide turf area between pavement and plantings. Generous sight distance must be maintained at all times. The plants used must be capable of growing relatively well with minimum maintenance to serve their purpose under the highway conditions they may encounter.

5. Design and choice of plant materials vary considerably from region to region. Rural locations may only require supplementing existing growth with small sized new plants and planting for special functions while the urban and suburban highway may require extensive plantings with larger sized plants.

6. Planting designs should be created in accordance with the requirements of the highway and serve a justifiable purpose. They should be planned objectively on a broad scale before consideration is given to the actual selection of plants to be used. Their composition should be pleasing and coordinated with the total highway environment with safety being the most important consideration.

7. Planting plans should be clear, concise, easily understood and presented on drawings separate from the highway construction plans. The plans should indicate type of adjacent land use, topographic features, such as slope

limits and utility installations in addition to the location of plants and their area of occupancy at maturity. A plant list should also be included in the plans. This will provide information concerning the species, size, condition, fertilizing requirements and other pertinent general notes which may apply. The latest and best planting techniques should be used along with top quality plants. Specifications for nursery stock, planting and other types of landscape construction should be clear, concise and describe the quality of work desired.

B. Functions of Highway Planting Design

1. In design form follows function. Some functions of highway planting design are as follows:

a. Planting for Highway Safety

i. Screening Headlight Glare. Plantings can be very effective in screening headlight glare from oncoming vehicles. Blinding vision due to headlight glare can be a cause of accidents. In addition to curved median areas, headlight glare can also be a problem between interchange loops and from frontage roads, service roads and parking areas. Shrub plantings may help prevent head-on collisions in these conditions.

ii. Delineation. Plants may be used to delineate changes in highway alignment. Headlight glare reduction plantings may serve a dual purpose in this regard. Shrubs or trees on the outside of curves may aid in directing a motorist, particularly in fog or rain storms and during night driving. Plants may also be used to aid a motorist in seeing directional signs by framing or forming a background.

iii. Psychological Design Considerations. Existing and new plantings may help to alleviate driver fatigue brought about by long stretches of riding surface that call for no change of eye focus which may even lull the driver to sleep. Emphasis may be given to directional changes by delineation plantings which aid in a driver's decision by making it easier to discern the outline of a curved roadway. These plantings may be in the median or on the outside of curves. This may be of particular importance at night when the plants are illuminated by headlights. Plantings placed beyond the junction of a "T" intersection may aid in informing a motorist of a change in direction. High headed trees may be placed within an interchange to make it conspicuous in the landscape for approaching roadways. The steepness of a cut slope may be accentuated by using vertical plant forms, or minimized by using horizontal plant forms and patterns.

iv. No vegetation shall be planted that will hide or obscure visibility of any official highway sign.

b. Planting for Environmental Mitigation

i. Traffic Noise. Traffic noise is a serious environmental problem to people living adjacent to major highways carrying large volumes of traffic. Plants absorb and scatter sound waves to a small degree. The effectiveness of plants as noise barriers is very limited because of the considerable width, height and density required. The principle noise reduction effect of plantings is psychological. When it is possible or feasible to use barriers or other actual means of attenuation, plantings may reduce human annoyance and awareness of the problem by screening the noise source from view. Evergreens are best suited for this purpose; however, they may be used in combination with dense deciduous plants. Planting should be an integral part

of noise barrier design due to their length and height. Plants can visually soften their effect and reduce the perceived massiveness of the barriers. In addition to trees and shrubs, vines are very effective for this purpose.

ii. Wildlife Habitat. Roadside plantings can provide food in the form of berries, browse and forage. Nesting cover is also provided for birds and other mammals. Preservation of existing trees and shrubs is important and the regeneration of native growth can be hastened by the establishment of mowing limits.

iii. Revegetation. Where climatic and soil conditions permit, all exposed soil surfaces should be revegetated. This may be in the form of turf, herbaceous or woody vegetation. Through the establishment of mowing limits, regeneration of native growth from adjacent seed sources will be encouraged and a natural blending with surrounding areas will occur. This form of naturalization may be hastened and supplemented by the planting of young trees and shrubs and proper maintenance activities. When reconstruction of a highway occurs, tree and shrub restoration should be included in the landscape plans to serve plant functions wherever this is feasible. This is important where existing roadside buffers must be destroyed for roadway construction.

c. Planting for Aesthetics

i. Visual Quality. Planting is one of the several methods used to improve visual quality in transportation facilities. Through the application of landscape design principles, the functional and aesthetic can blend to produce safe and pleasant highways. The highway should reflect the character of attractive communities. Trees and shrubs can provide a green buffer between the traveled way and adjacent development. Plants of larger size may be necessary in urban areas to give an immediate effect. The selection of suitable species is important in urban areas and should be based on experience in similar areas. Street tree plantings can significantly improve the visual quality of communities. Flowering trees and shrubs and wildflowers enhance the highway environment and offer pleasant and changing scenes for the motorist and adjacent property owners.

ii. Screening Undesirable Views and Objects. Screening undesirable views seen from and toward the highway can be performed with plants, earth berms, fences and combinations thereof. Space permitting, plantings offer a variety of forms and combinations which can be arranged to obtain the desired results. Although effective screening with plants may take several years to achieve, this should not deter or discourage the use of this method. Sight lines from and toward the highway, of the object to be screened, should be studied and a determination of the type of screening to be used should be made. Where a year-round effect is desired, evergreen plants should dominate and deciduous should be added for seasonal and textural interest. Whenever possible, consideration should be given to the removal of the objectionable object.

d. Setback Distances for Trees

i. These guidelines may be applied to new plantings of trees whose trunk diameter at maturity will be 4 inches or greater. Setback distances or vehicle recovery areas are related to type of slope, slope ratio, traffic volumes and design speed of the highway. The setback is from the traveled way, which is the portion of the roadway for the

movement of vehicles, exclusive of shoulders and auxiliary lanes. Minimum horizontal and vertical clearance setbacks for all roads will be governed by the Louisiana Department of Transportation Design Standards.

ii. Given distances will not always be practical. Variations in site-specific conditions need to be considered and may warrant special treatment. Existing historic, aesthetic or environmentally important trees may be retained within the recovery area if they are protected or are not in a target position, such as the outside of horizontal curves. Shrubs and ground cover may be planted within the recovery area for safety and aesthetic purposes.

iii. The above guidelines should be used unless one of the following reasons will allow for a lesser distance or require a greater distance: For central business districts and local streets with barrier curbs, a minimum distance of 1.5 feet should be provided beyond the face of the curb to the anticipated outside diameter of the tree trunk when mature. On urban arterials and collectors with similar curbs and usually higher speeds, the offset distances should be increased.

iv. Where limited right-of-way or the necessity for planting would result in less clearance, all factors in the area should be weighted to decide if a special exception is warranted. Special exceptions or conditions may include:

aa. Where exceptional or unique trees because of size, species or historic value exist.

bb. On designated scenic roads or low-speed roads, as well as low-speed urban roads.

cc. Where the absence or removal of trees would adversely affect rare/endangered/threatened species (plant or animal), wetlands, water quality or result in serious erosion/sedimentation effects.

dd. Locations where the cumulative loss of trees would result in a significant adverse change in character of the roadside landscape.

ee. Landscape, park, recreation, horticultural, residential or similar areas where trees and other forms of vegetation provide significant functional and/or aesthetic value.

v. Trees should not be placed or remain where they are particularly vulnerable to vehicle contact or where significant incidences of run-off road accidents occur.

C. Criteria for Landscaping Interstate and Major Primary Routes

1. The clear distance from the edge of the traveled way to the face of the tree line shall be a minimum of 50 feet on the mainline and 30 feet for ramps. The setback is measured from the traveled way, which is the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes. These distances apply to trees with trunk diameter of four inches or greater at maturity.

2. Trees may be planted or remain within the 50 foot clear distance or the 30 foot clear ramp area when they are protected by guardrail on nontraversable backslopes or other protected areas. Setback distances behind guardrails are as follows:

a. The minimum distance behind guardrail depends on the deflection of the guardrail as described in the AASHTO reference cited. Examples of this setback distance are 11 feet for cable guardrail, 3 feet for W-Beam guardrail and no distance for concrete barriers.

b. Although there is no minimum distance behind rigid barriers, consideration should be given to tree branching and maintenance in determining setbacks.

3. The clear distance from the edge of the travel lane to the shrubbery line shall be determined by Sheet 1 of 4 of the Design Standards.

4. Exit gore areas shall be free for a distance of 350 feet of trees and shrubbery which will attain a height greater than 2.5 feet. Shrubby which will not attain a height of 2.5 feet will be permitted in the gore area. In rural areas, exit gores shall be free of trees for a distance of 600 feet along the mainline and 500 feet along the ramp.

5. Entrance ramps shall require a minimum of 350 feet along the ramp (sight triangle to the main roadway) free of trees and shrubbery. In the case of loop ramps, a point 350 feet from the gore area, intersecting the main travel lane and extended to the nose of the off ramp preceding the loop or 600 feet (whichever is longer) shall be clear of trees and shrubbery, with the exception of shrubs which will not attain a height greater than 2.5 feet. In the case of large rural diamond interchanges, there will be no planting over 2.5 feet in height along a line of sight from a point 500 feet from the gore area intersecting the mainline and a point 600 feet along the mainline from the gore area.

6. The clear distance from the edge of ramps to the shrubbery line shall be a minimum distance of 15 feet.

7. The clear distance from the edge of entrance and exit ramps to the tree line shall be a minimum of 50 feet. No trees will be permitted within 50 feet of the inside and outside edge of a loop ramp. Shrubby may be planted in front of any group of trees planted outside the 50 foot line. Shrubby planted within the 30 foot line on the inside of loop ramps shall not attain a height greater than 2.5 feet in order to provide adequate stopping sight distance around the loop.

8. Ramp terminals at the cross roads shall have an unobstructed view of the crossroad for a minimum of 150 feet in all directions. The view back beyond the structure from the exit ramp intersection with the cross road shall be kept unobstructed within the limits set by the columns or embankment.

9. No trees shall be planted within utility rights-of-way or in areas which may interfere with power lines once the trees mature.

10. Refer to the figures below for graphic illustrations of these criteria.

11. Design Guidelines may be loosened so as to permit maintenance - intensive designs which might not otherwise be permitted on the state highway system. Examples might include fountains, statuary and/or planting schemes which require a high level of consistent maintenance in order to assure success.

D. Criteria for Landscaping Arterial Roads, Collector Roads, Local Roads and Streets

1. The normal set-back distance for trees (See Design Standards for Urban UA-1, UA-2) whose trunk diameter at maturity will exceed four inches shall not be closer than 40 feet from the travel edge of the roadway except under special conditions:

a. On the high or cut side of the roadway not in the likely path of an uncontrolled vehicle.

b. On the low or fill side if protected by a guardrail or not likely to be hazardous to an out-of-control vehicle.

c. If important historically or aesthetically and, protected by a guardrail.

d. On routes in cities and towns with speed limits 35 MPH or less, a minimum of 10 feet behind a barrier curb to the face of the tree. Trees of this size will only be allowed in medians which are 30 feet or greater in width and protected by a barrier curb.

2. Small trees, with trunks normally less than 4 inches, such as crape myrtle, wax myrtle, etc., will be allowed in medians, on routes with speed limits up to 45 MPH, under the following conditions:

a. Minimum setback determined by design standards behind a barrier curb. Not more than 4 feet of the tree spread will be allowed to overhang the roadway.

b. A minimum setback of 30 feet beyond the edge of the travel way, for uncurbed roadways and medians, providing they do not interfere with the drainage pattern.

3. The clear distance from the right edge of the travel way to the shrubbery line shall be a minimum of 25 feet. When protected by a barrier curb, the minimum will be determined by Design Standards.

4. On curves, adequate sight distance for the design speed of the highway must be maintained, in accordance with Design Standards.

5. For safety reasons, control of landscaping at intersections is critical. Sight triangles at intersections are determined by the design speeds of the intersecting roadways. Any object within the sight triangle high enough above the elevation of the adjacent roadways to constitute a sight obstruction will not be allowed. No trees shall be planted in sight triangles. Shrubby and ground cover will be allowed in the sight triangle providing their height does not exceed 2.5 feet above the roadway surface. Minimum sight distance requirements for intersections are illustrated in "Sight Distance Requirements at Typical Intersection."

6. Refer to the figures below for illustrations of these criteria.

7. Design Guidelines may be loosened so as to permit maintenance-intensive designs which might not otherwise be permitted on system. Examples might include fountains, statuary, art and/or planting schemes which would require a high level of consistent maintenance in order to assure success.

8. A plant list outlining various species that have been used for highway planting is included in this manual (See §713.E). This should not be the only plant material considered for highway landscaping.

9. The Landscape Unit of DOTD will provide technical assistance, standard plans and suggestions for construction methods along highway rights-of-way to local governing bodies. The local governing body should address the request to the Secretary of the Department of Transportation and Development in order to obtain assistance. Upon completion of the planning and design phase of a project, the governing body which requested the project will obtain a permit from the Department's Permit Unit. This permit will stipulate that the governing body will construct and maintain the project at no cost to the Department of Transportation and Development.

E. Planting List

1. The following is a listing of plants which have been used on landscaping projects with success. This list is only intended as a guide and is not considered to be all inclusive.

a. Shrubs and Ground Covers (30" maximum height)

- i. Liriope (Liriope Muscari or Liriope Spicata)
- ii. Monkey Grass (Ophiopogon Japonicum)
- iii. Asian Jasmine (Trachelosperum Asiaticum)
- iv. Daylilly (Hemerocalis Spp.)
- v. Indian Hawthorne "Clara" (Raphiolepis Indica)
- vi. "Blue Rug" Juniper (Juniperus Horizontalis "Wiltonii")
- vii. "Blue Pacific" Juniper (Juniperus Conferta "Blue Pacific")

viii. Parson's Juniper (Juniperus Parsoni)

b. Small Shrubs (4' maximum height)

- i. Dwarf Yaupon (Ilex Vomitoria Nana)
- ii. Dwarf Chinese Holly (Ilex Cornuta Rotunda)
- iii. Indian Hawthorne "Peggy" and "Clara" (Raphiolepis Indica)
- iv. Compacta Juniper (Juniperus Chinensis Pfitzeriana Compacta)
- v. Dwarf Oleander "Petite Pink" or "Petite Salmon"

(Nerium Oleander)*

vi. Fountain Grass (Pennisetum Setaceum)

vii. Maiden Grass (Miscanthus Sinensis)

*These plants should be used in only the southern most areas of the state due to their susceptibility to freezing.

c. Large Shrubs

- i. Pampas Grass (Cortaderia Argentea)
- ii. Eleagnus (Eleagnus Angustifolia)
- iii. *Pittosporum (Pittosporum Tobira)
- iv. *Oleander (Nerium Oleander)
- v. Spiraea (Spiraea Reevesiana)
- vi. *Primrose Jasmine (Jasminum Primulinum)
- vii. Ligustrum (Ligustrum Japonica)
- viii. *VIBURNUM (Viburnum Odoratissimum)
- ix. Photinia (Photinia Fraseri)
- x. Pineapple Guava (Feijoa Sellowiana)
- xi. *Sago Palm (Cycas Revoluta)

*These plants should be used only in the southern half of the state due to their susceptibility to freezing.

a. Small Trees (25' maximum height.)

i. Crape Myrtle (Lagerstroemia Indica or Lagerstroemia Indica x Fauriel)

ii. Wax Myrtle (Myrica Cerifera)

iii. Leggy Yaupon (Ilex Vomitoria)

iv. Tree Hollies (MANY VARIETIES) (Ilex)

v. Leggy Ligustrum (Ligustrum Japonica)

vi. Leggy Photinia (Photinia Fraseri)

vii. Leggy Pineapple Guava (Feijoa Sellowiana)

viii. *Leggy Viburnum (Viburnum Odoratissimum)

ix. **Crab Apple (Malus Spp.)

x. *Vitex (Vitex Agnus Castus)

xi. Japanese Magnolia (Magnolia Soulangeana)

xii. Purple Plum (Prunus Cerasifera)

xiii. *Windmill Palm (Trachycarpus Fortunei)

xiv. *Palms (Many Varieties)

*These plants should be used only in the southern portions of the state due to their susceptibility to freezing.

**These plants should be used only in the northern portions of the state.

e. Medium Trees

i. Drake's Elm (Ulmus Parvifolia Sempervirens "Drake")

ii. Pistachio (Pistachia Chinensis)

iii. Bradford Pear (Pyrus Calleryana "Bradford")

iv. *Golden Rain Tree (Koelreuteria Bipinnata)

v. *Cabbage Palm (Sabal Palmetto)

vi. *Palms (Many Varieties)

* These plants should be used only in the southern portions of the state due to their susceptibility to freezing.

f. Large Trees

i. Live Oak (Quercus Virginiana)

ii. Sawtooth Oak (Quercus Acutissima)

iii. Water Oak (Quercus Nigra)

iv. Shumard Oak (Quercus Shumardii)

v. Red Maple (Acer Rubrum Drummondii)

vi. Silver Maple (Acer Saccharinum)

vii. Tulip Poplar (Liriodendron Tulipifera)

viii. American Elm (Ulmus American)

ix. Cedar Elm (Ulmus Crassifolia)

x. Winged Elm (Ulmus Alata)

xi. Sweet Gum (Liquidambar Styrciflua)

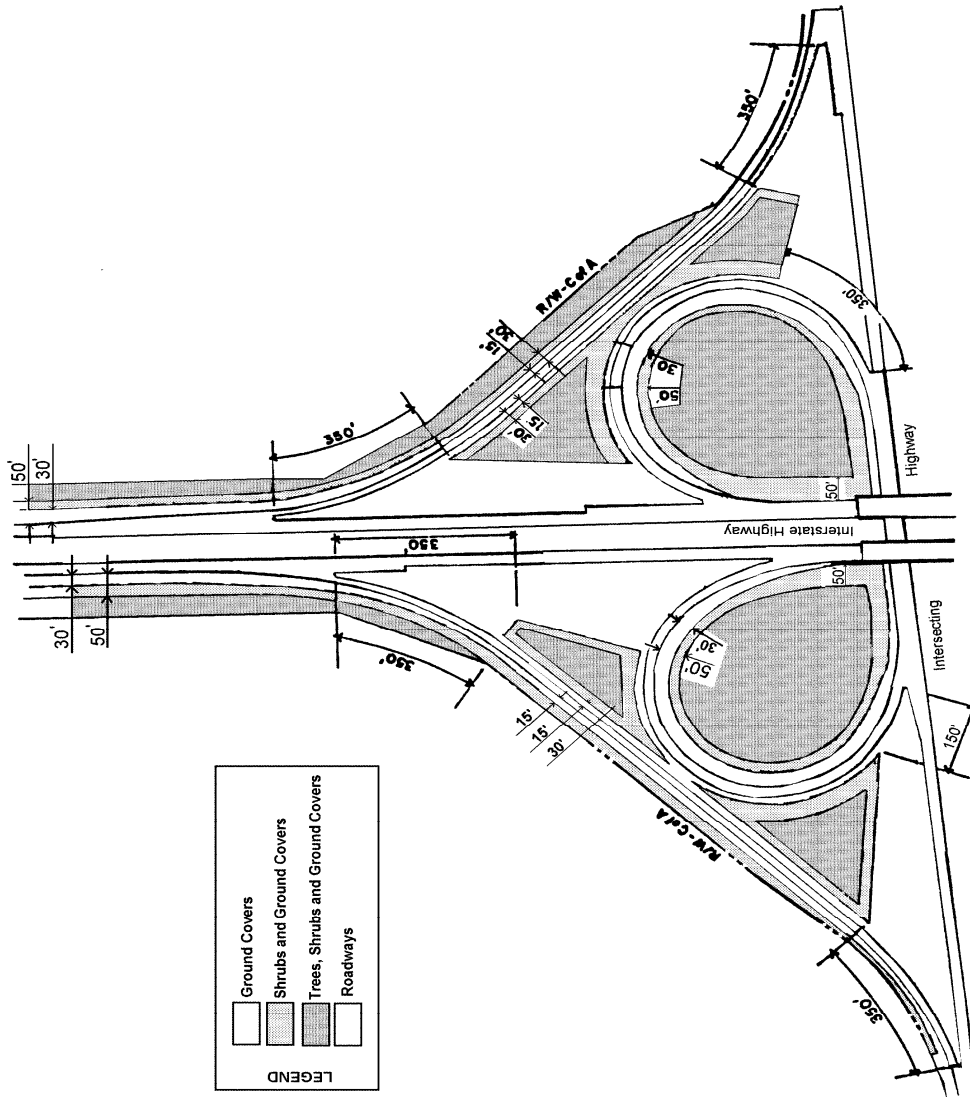
xii. Cypress (Taxodium Distichum)

xiii. Southern Magnolia (Magnolia Grandiflora)

xiv. Weeping Willow (Salix Babylonica)

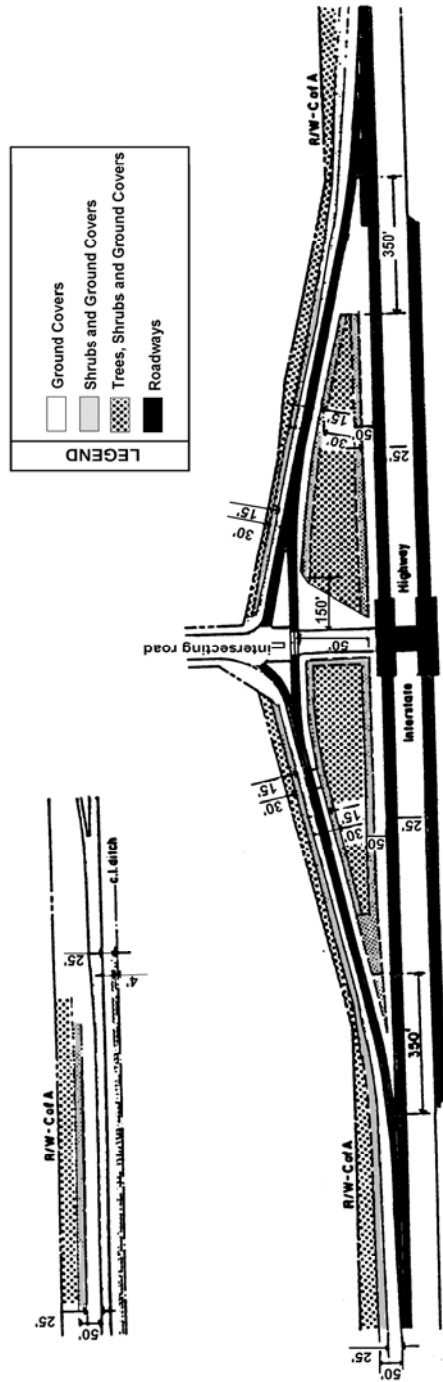
xv. Pines (MOST VARIETIES) (Pinus)

F. Typical Urban Cloverleaf



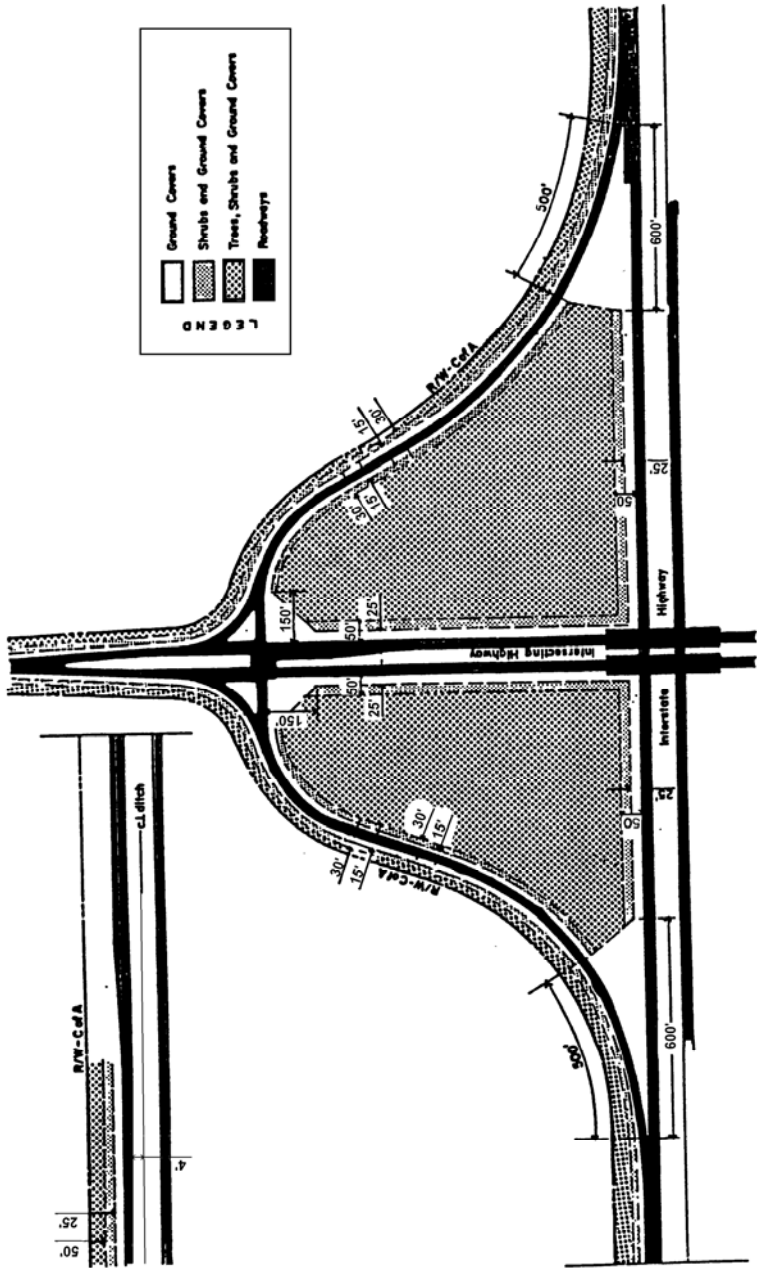
TYPICAL URBAN CLOVERLEAF

G. Typical Urban Diamond



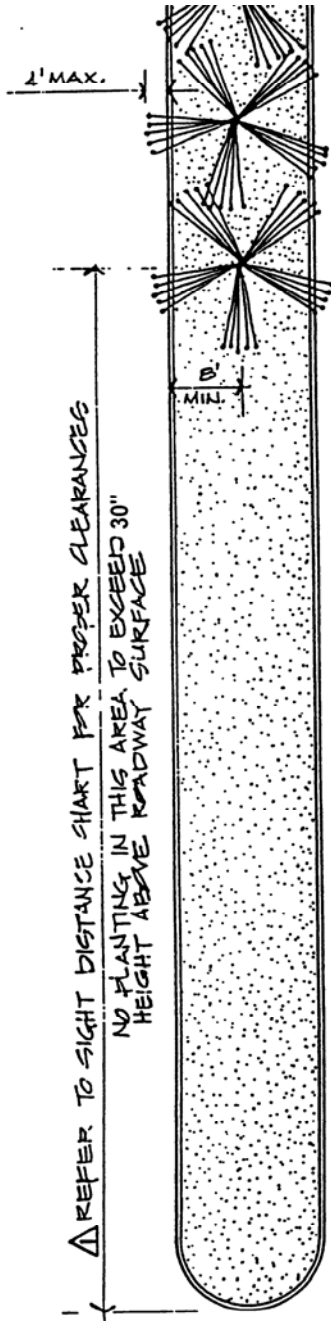
TYPICAL URBAN DIAMOND

H. Typical Rural Interchange



TYPICAL RURAL INTERCHANGE

I. Median Planting for Barrier Curbed Roadways



NOTE:

MATURE SPREAD OF TREE CANOPY SHOULD NOT OVERHANG ROADWAY BY MORE THAN 4 FEET AND NOT INTERFERE WITH TRAFFIC.

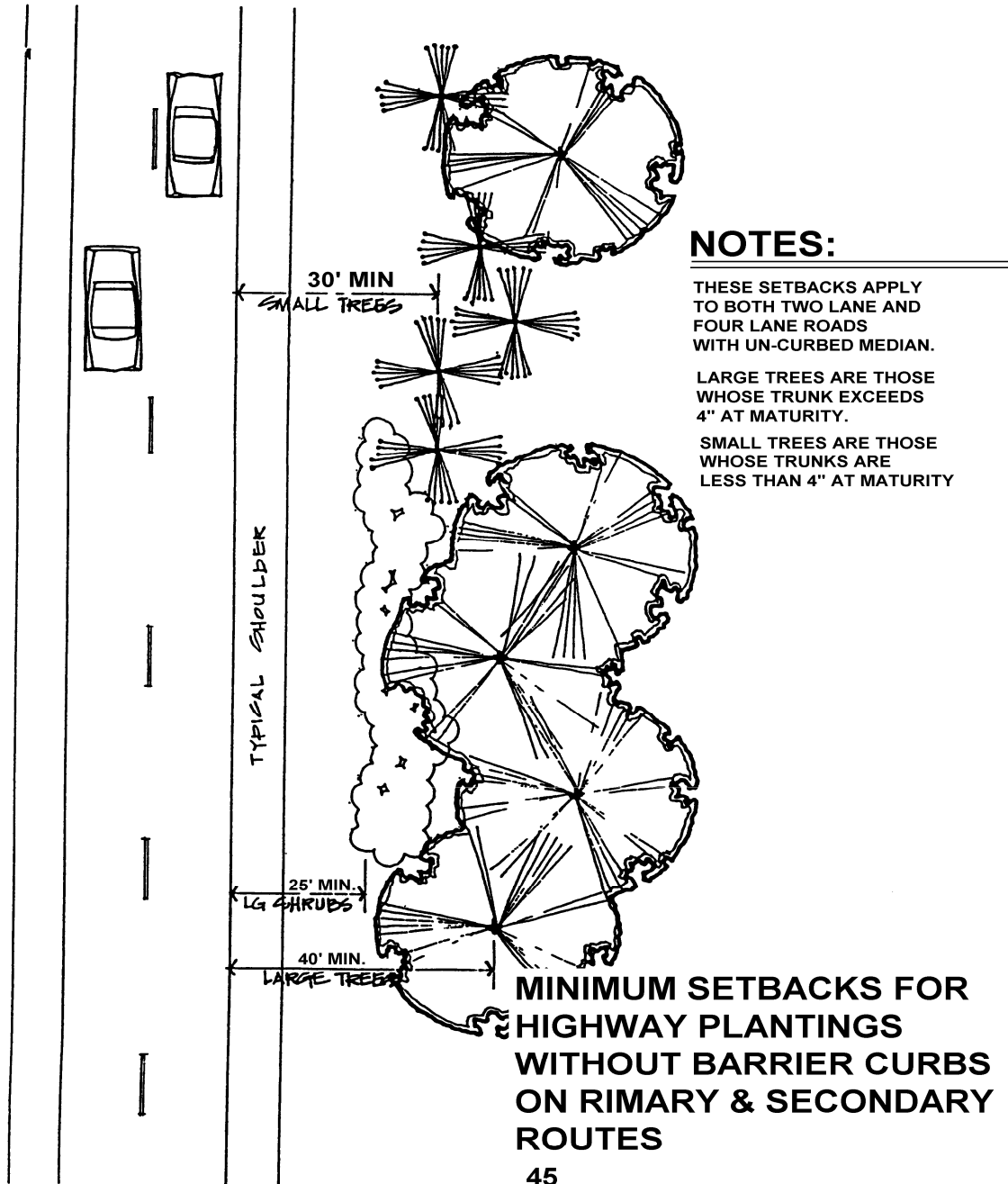
LARGE TREES SHOULD NOT BE PLANTED IN MEDIANS LESS THAN 40' WIDE WITHOUT CURBS. IN MEDIANS OF LESS THAN 40' WIDTH, EXAMPLES OF ACCEPTABLE TREES ARE GRAPE MYRTLE, WAX MYRTLE, CRAB APPLE, LEGGY LINSTRUM, ETC. ALONG WITH ALL SHRUBS.

**MEDIAN PLANTING FOR
BARRIER CURBED
ROADWAYS - PRIMARY &
SECONDARY ROUTES**

▲ Revised: 3/22/91

▲ Revised: 10/30/98

J. Minimum Setbacks for Highway Plantings without Barrier Curbs



NOTES:

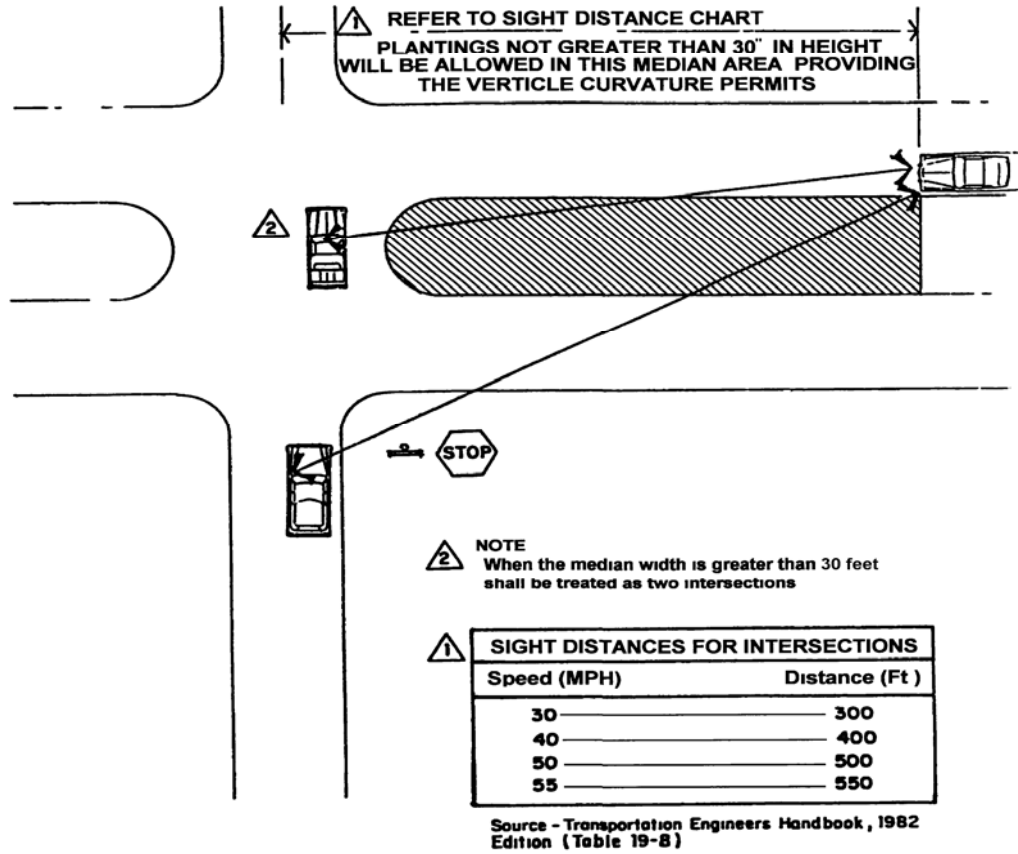
THESE SETBACKS APPLY TO BOTH TWO LANE AND FOUR LANE ROADS WITH UN-CURBED MEDIAN.

LARGE TREES ARE THOSE WHOSE TRUNK EXCEEDS 4" AT MATURITY.

SMALL TREES ARE THOSE WHOSE TRUNKS ARE LESS THAN 4" AT MATURITY

MINIMUM SETBACKS FOR HIGHWAY PLANTINGS WITHOUT BARRIER CURBS ON PRIMARY & SECONDARY ROUTES

K. Sight Distance Requirements



**SIGHT DISTANCE REQUIREMENTS
AT TYPICAL INTERSECTION
DIVIDED HIGHWAY**

REVISÉD 10/30/98

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development LR 17:204 (February 1991), amended LR 26:

§715. Guidelines for Vegetation Visibility Permits

A. General. The Department of Transportation and Development recognizes that the presence of vegetation on highway rights-of-way has a positive value for Louisiana. Trees benefit the state by mitigating the impact of the highway system, increasing soil stabilization, providing wildlife habitat, and moderating microclimate extremes. The Department of Transportation and Development endorses the preservation of existing vegetation along transportation corridors. It may become necessary to remove vegetation when maintenance and safety concerns warrant such action. The Department of Transportation and Development may consider trimming and removal of vegetation that visually impacts legally permitted outdoor advertising displays and adjacent businesses. However, not every permit request will be granted. Factors such as adjacent land use, visual screening of & from the roadway, tree species types & conditions, and public opinion will be considered before a final determination is made. All permits granted for vegetation removal will require mitigation in the form of replacement plantings. Maintenance of these planting areas will become the responsibility of the permittee. Permits will only be issued between October 15 and April 15 to promote optimum survival of replacement vegetation.

B. Procedure. Requests for off-premise or on-premise advertising displays will be made using application for Project Permit Form Nos. DOTD 03-41-3035 or DOTD 03-41-0593, copies of which will be maintained in each district office. The application for a permit shall include the following:

1. State or Federal Highway Number
2. Location or distance from nearest state highway intersection to the proposed sign location.
3. Number, name of species, approximate diameter and height of existing trees which are projected for removal.
4. Where trees are in groups, the diameters and heights may be shown for each group as a whole; i.e., 10 oaks and pines 8" to 12" diameter, 30' to 50' high.
5. Approximate number and names of shrubs and vines or, if the number cannot be estimated, the distance and location along the highway from point-to-point must be shown.
6. Kind of work to be done - trimming, removal and replacement (replacement will be required in all instances where removal of vegetation is requested). No topping of trees will be allowed.
7. 8" x 10" color photographs taken from required locations (see Diagrams 1 & 2) clearly marked to show limits of work.

a. As part of his review, the traffic operations engineer will verify the location of the display and will forward the request to the Headquarters Permits Unit with information about the display's legal status. Legal status will

include available and pertinent information that should be considered, including but not limited to the following:

- i. Is this display under active citation?
- ii. Is this display subject to imminent removal?
- iii. Is this display illegally placed?
- iv. Is this display nonconforming to state beautification criteria?
- b. Where replacement of trees is required, a plan (designed by a licensed Landscape Architect, at no cost to the Department) will be submitted to the Department for review, comments and/or approval.
- c. Trimming and removal of trees must be performed by a bonafide bonded tree care service at no cost to the Department. A licensed landscape contractor shall perform replacement to trees at no cost to the Department. The permit shall contain a warranty clause wherein the permittee agrees to replace any trimmed or replacement tree or vegetation not living or seriously damaged one year after work is completed.
- d. Visibility improvement will not be undertaken in any of the following instances:
 - i. The display has been in place less than five (5) calendar years.
 - ii. The display is illegally placed.
 - iii. The display is currently under contract with the state to be removed or it will be removed within one year.
 - iv. The display is on state property.
 - v. A right-of-way taking is imminent (within one year.)
 - vi. The trees or other vegetation to be trimmed, selectively removed, or removed and replaced are a distance greater than 500 feet, measured along the highway from the display.
- e. Access to the work area shall be from private property or frontage road side and not from the main roadway or ramps. Where this is not practical the permittee shall conduct his operation in accordance with DOTD Maintenance Standards, including appropriate traffic control devices. The area shall be restored to original condition upon completion of the work.
- f. Drainage shall not be impeded.
- g. Work will be performed only during regular daylight hours, during which the Department of Transportation is open, Monday through Friday excluding legal holidays.
- h. Vegetation which has been cut will not be left overnight within 30 feet of the travel lane or within highway right-of-way, whichever is less. No more vegetation will be cut down than can be cleaned up and removed by the end of work the following day. No debris will be left over a weekend or holiday. No burning will be permitted on the highway right-of-way. Stumps shall be cut or ground flush with the ground and treated with an EPA- approved herbicide immediately after the stump is cut.
- i. Work shall not interfere with traffic on the roadway or shoulder at anytime. Parking of vehicles on roadway or shoulder shall not be permitted. All loading, hauling or other work associated with the permit will be

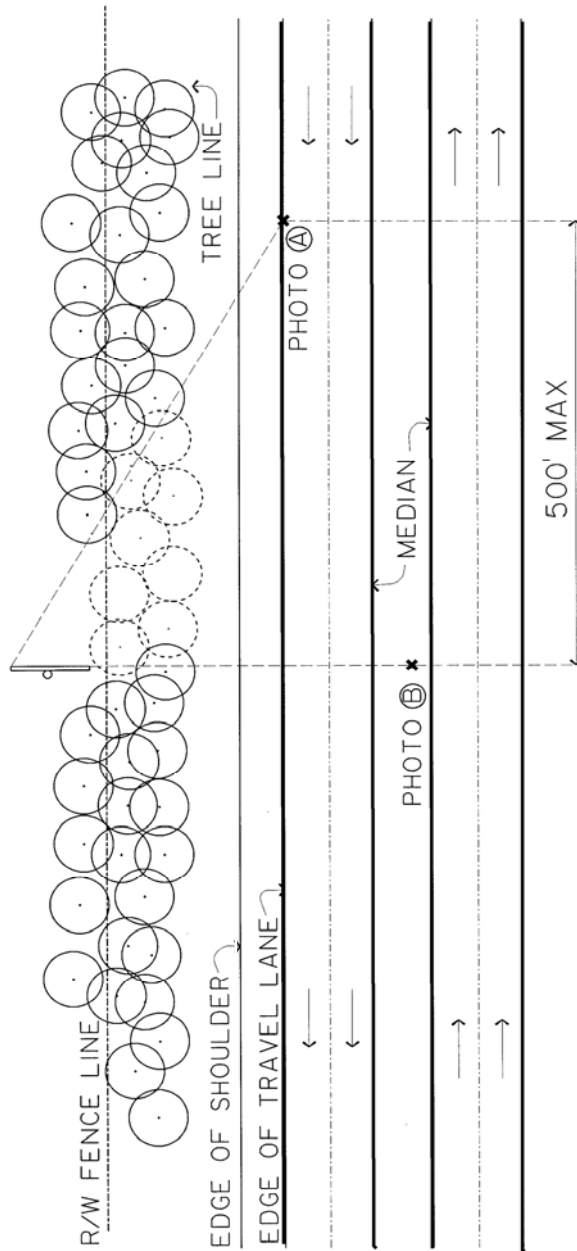
conducted across adjacent property. Appropriate warning signs shall be placed by the permittee in advance of the work area in accordance with the current edition of Part VI of the Manual on Uniform Traffic Control Devices (MUTCD) — Standards and Guides for Traffic Controls for Streets and Highway Construction, Maintenance, Utility and Incidental Maintenance Operations.

j. The vegetation control area will not extend more than 500 feet along the highway from the viewable face(s) of the advertising device and cleared to and along the line of sight.

k. Where operations are conducted in an unsatisfactory manner or for any other cause, the Department may revoke the permit and any future permitting will be withheld until the unsatisfactory condition has been corrected.

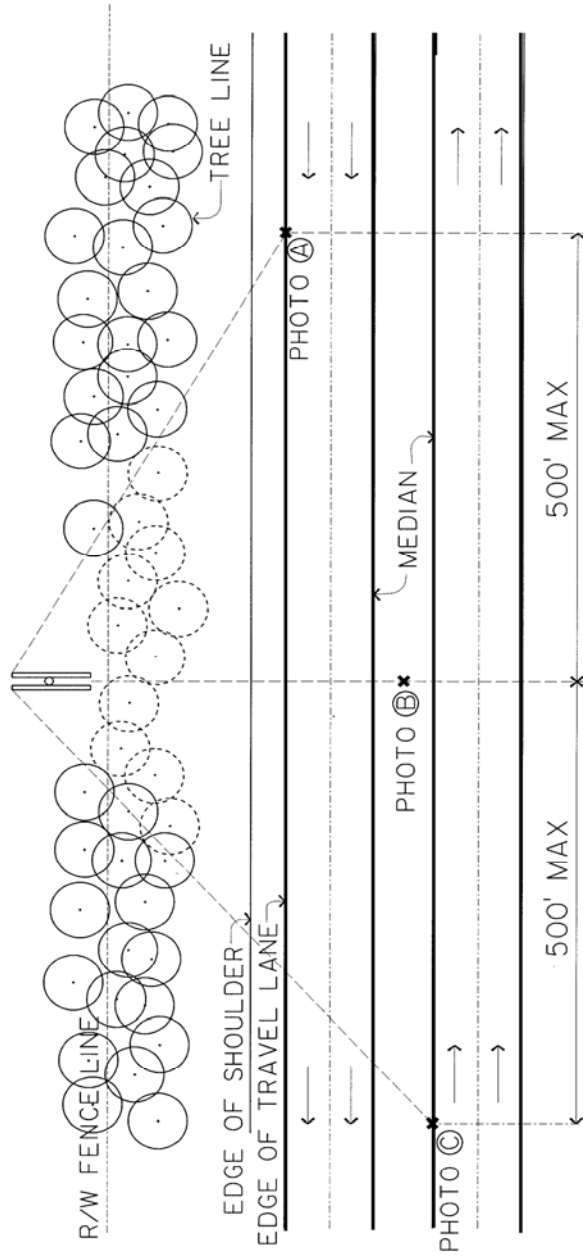
C. Single Face Sign

DIAGRAM I
SINGLE FACE SIGN



D. Double Face Sign

DIAGRAM 2
DOUBLE FACE SIGN



AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), LR 26:

§717. General policy governing the treatment of existing significant trees within the highway right-of-way, zone of construction or operational influence.

A. Philosophy. The department's mission is to design and build highways and transportation facilities for the movement of people and goods, and also incorporate and accommodate cultural and community values. While emphasizing the importance of safe and efficient transportation systems, the value of transportation to a society is relative to all other things valued by a society. The same public that demands better and safer roads with increased capacity may also seek to prevent implementation of a demanded highway improvement, when such implementation necessitates the removal of a cherished tree or trees. The Department must find design solutions and operational options that give full consideration to these values, which are often in conflict with traditional transportation design objectives.

B. Legislation. Legal basis and mandate for the above philosophy exist at both the federal and the state level. The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and the National Highway System Designation (NHS) Act of 1995 both make strong commitments to preserving and protecting the environmental and cultural values affected by transportation facilities. In Louisiana, R.S. 48:267, R.S. 48:268, and R.S. 48:269 address the preservation and encouragement of trees, shrubbery, and vegetation, the tampering with trees and shrubs, and general authority for aesthetics in roadside development.

C. Definition. For the purposes of this policy, a tree is significant if it is 18 inches or greater in diameter, or is judged to be viable and aesthetically important by the Department's Landscape Architect, or if it is considered significant by one or more members of the local community. (R.S. 3:427 1 requires that any tree "ten inches in diameter breast height or greater" cut down on public land or rights-of-way be replaced by at least two trees, provided adequate space is available. This policy is intended to accord a higher degree of awareness to the disposition of trees with specific significance to the community).

D. Design Considerations. Trees are an important aspect of community identity. If communities consider existing trees a valuable resource, alternatives to complete eradication should be pursued. These alternatives may include installation of traffic barriers, lowering of the design speed, or even complete redesign of the facility to incorporate the trees. In most cases, a design solution can be found; but, the design team must recognize that individual situations will require individual solutions and individual approaches to design. The proximity of trees to the likely paths of errant drivers is a serious consideration to be made by designers knowledgeable in safety issues. However, a decision to create a clear zone that requires the removal of existing trees is an issue that should be presented to the public and addressed by the multidisciplinary team very early in the design process. The Department's Landscape Architect and Environmental Engineer should be consulted

when designs or operations pose potential conflict with significant trees. The fundamental principles to guide the designer, in order of preference, are:

1. All reasonable measures should be considered to avoid conflicts with trees of local value and significance. Such measures are not limited to choices in alignment or cross-section features. Selective routing of a storm sewer trunkline may avoid damaging or removing a significant tree, even if it requires additional right-of-way or servitude. Placement of a pipe or a utility may be accomplished by boring, as opposed to trenching, to avoid damage to root systems.

2. When complete avoidance is not possible, all reasonable measures should be taken to limit the magnitude and extent of the disturbance to the affected trees. The Department's Landscape Architect should be consulted in developing appropriate limitation measures.

3. Plans should include measures to mitigate any necessary impacts to existing significant trees. These may include compensation to the landowner, replacement of the tree, or enhancement at another valued location. Decisions regarding appropriate mitigation must be made in cooperation with the affected local community or landowner. The mitigation plan must meet the requirements of R.S. 3:4271, which requires the planting of at least two replacement trees for each tree greater than ten inches in diameter removed (provided that appropriate space is available). (References to guide in preliminary design concepts and in specific design solutions include: Flexibility in Highway Design, U.S. Department of Transportation, Federal Highway Administration Publication No. FHWA-PD-97-062, and A Guide for Transportation Landscape and Environmental Design, American Association of State Highway and Transportation Officials, Publication No. ISBN 1-56051-009-0.)

E. The decision to remove a significant tree should be reached only after all reasonable efforts to preserve it have been exhausted. The decision requires the concurrence of the Chief Engineer to confirm that there are no acceptable design or operational alternatives. In most cases, it is expected that a decision to remove will have been made in a climate of public involvement and dialog with members of the affected community. In no case will a decision to remove a significant tree be implemented without notifying the affected community of the Department's intentions and its reasons.

F. Trees determined by the design team to be significant and the appropriate disposition (preservation, specified limited impact, or any special treatment) will be identified in the plans. The Project Engineer will assure that the contractor's operations are sensitive to the treatment required by the plans. Construction considerations may include temporary fencing to protect from construction equipment, avoidance of root zones, care of overhanging branches, etc.

G. The same clear zone for which the project was designed and constructed should be maintained free of new growth. The decision to maintain or remove trees within the right-of-way of an existing system will be governed by the design standards applicable to the original design and construction. Installation of protective measures, such as barrier rail, may be considered. Trees should be trimmed to provide appropriate vertical clearance. The Department's

Landscape Architect should be consulted prior to cutting or pruning of any significant trees. All maintenance operations should be conducted with the same care as exercised in construction to avoid damage to existing significant trees.

H. Where existing trees or vegetation obscure displays which were lawfully in place prior to the existence of the trees or vegetation, or where displays are erected by permit after existence of trees and/or other vegetation, removal and replacement will be considered as warranted by local conditions and in accordance with this rule.

I. It is the policy of the Department of Transportation and Development to retrofit new design standards to existing systems only as part of a general upgrade or reconstruction. Otherwise, the standards under which the system was originally built will continue to govern its operation and maintenance. Removal of significant trees from an existing system should not be undertaken simply to accommodate evolving standards, but will require the same degree of consideration and local involvement discussed herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204(February, 1991), LR 26:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225)237-1359.

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Billfishes (LAC 76:VII.355)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.355, increasing the minimum size limit for blue marlin from 96 inches to 99 inches lower jaw fork length. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§355. Harvest Regulations—Billfishes**

Species	Minimum Size Limit
1. Blue Marlin	99 inches Lower Jaw Fork Length (LJFL)

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:542 (March 1999.), LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Wednesday, June 7, 2000.

In accordance with Act#1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Billfishes**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local government implementation costs. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule is intended to provide consistent regulations for recreational harvest of blue marlin in state waters and in adjacent Federal waters. Blue marlin has been designated by the National Marine Fisheries Service (NMFS) as overfished under the provisions of the Magnuson-Stevens Act. The minimum size limit of blue marlin is currently 99 inches lower jaw fork length in Federal waters.

Recreational fishers who harvest blue marlin in state waters will be directly impacted, since they will only be allowed to keep blue marlin 99 inches lower jaw fork length instead of 96 inches. However, this impact is anticipated to be negligible. Harvesters may redirect their fishing efforts to other species, practice catch and release, or participate in non-fishing activities. Long-term benefits may accrue to harvesters in both the recreational and commercial sectors and the general public as a result of possible increases in the stocks protected by the proposed rule modification. No additional costs, permits, fees, workload or paperwork will occur from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

Thomas M. Gattle, Jr.
Chairman
0004#045

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Prohibited Fish Species (LAC 76:VII.359)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.359, authorizing the possession of prohibited fish species. Authority for adoption of this Rule is included in R.S. 56:319.1. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §359. Prohibited Fish Species, Permit for Scientific or Educational Purposes

The Secretary of the Department may issue permits to any person to possess, sell, or transport any fish into Louisiana for scientific or educational purposes, including species whose possession, sale, or transport is otherwise prohibited by commission rule. A copy of Federal Exempted Fish Permit must be submitted with the Prohibited Fish Species (PFS) application. The Department PFS Permit must be on display with the permitted fish at all times. This permit is non-transferable. The permit does not exempt holder from any Federal regulations and may be revoked at any time if abused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Mr. Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Wednesday, June 7, 2000.

In accordance with Act# 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Prohibited Fish Species

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule will be carried out using existing staff and funding levels. Costs for permit development and issuance will be negligible, since less than ten permits are expected to be issued annually. Attaining and maintaining an adequate compliance level with this new regulation, may lower compliance levels of other regulations due to dilution of enforcement efforts. Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent that enforcement efforts are diverted to this new activity, some civil and/or criminal violators may not be apprehended. Any civil fines not collected will educe department revenue, and any criminal fines not collected will reduce local revenue. Any reduction in revenues which might occur are anticipated to be negligible.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will only affect persons or non-governmental groups attempting to possess prohibited species in Louisiana for scientific or educational purposes. The affected individuals or groups will be required to fill out a Prohibited Fish Species Application Form and attach a copy of the Federal Exempted Fish Permit. Economic benefits to directly affected persons or nongovernmental groups will depend upon the purpose of possession or use of such species. No additional costs will be incurred from the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

Thomas M. Gattle, Jr.
Chairman
0004#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY - MARCH 2000

LAC Title	Part.Section	Effect	Location LR 26	Month Page	LAC Title	Part.Section	Effect	Location LR 26	Month Page
4	VII.1121-1143	Amended	Jan	70	42	II.Chapters 1 and 2	Adopted	Mar	502
	VII.1271-1275	Amended	Jan	79		III.119, 120	Adopted	Feb	339
7	XIII.143, 147	Amended	Feb	235	IX.2405	Amended	Feb	339	
	XXXIX.111	Repealed	Jan	25	IX.2919-2924	Adopted	Feb	335	
	XXXIX.111	Adopted	Jan	25	XIII.2331	Adopted	Feb	339	
10	XVII.701	Adopted	Feb	236	XIII.2724, 2737, 2744,	Repealed	Feb	334	
					XIII.2745, 2747	Repealed	Feb	334	
13	III.Chapter 1	Amended	Feb	236	XIII.4001-4013	Adopted	Feb	335	
					III.Chapter 3	Amended	Feb	241	
					III.Chapter 5	Amended	Feb	239	
22	I.337	Amended	Feb	332	46	XXV.Chapters 1-7	Adopted	Feb	295
						I.Chapter 21	Amended	Mar	488
						V.109	Amended	Mar	488
25	IX.303-310, 312, 330, 331,	Amended	Jan	25	XXXIII.103, 1508, 1603, 1611	Amended	Mar	488	
					IX.501-507	Amended	Jan	25	
28	I.901	Amended	Feb	224	XLIX.1103	Amended	Feb	316	
					28	I.901, 902	Amended	Mar	458
I.901, 903	Amended	Jan	62						
28	I.903	Amended	Jan	62	LV.309	Amended	Feb	327	
					I.903	Amended	Mar	459	
28	I.904	Amended	Mar	459	LV.311	Amended	Feb	328	
					V.109	Amended	Mar	484	
28	IV.103, 301	Amended	Jan	65	LX.111, 503, 705, 801, 803	Amended	Mar	493	
					IV.701-705	Amended	Jan	65	
28	IV.703, 803	Amended	Jan	64	LX.1305, 1325, 2107	Amended	Mar	493	
					IV.803, 805	Amended	Jan	65	
28	IV.901, 909, 911	Amended	Jan	69	LXVII.Chapters 1-69	Repealed	Jan	37	
					IV.903	Amended	Jan	65	
28	IV.1701	Amended	Jan	65	LXVII.Chapters 1-69	Adopted	Jan	37	
					IV.2101	Amended	Jan	65	
28	XXXIX.307	Amended	Jan	64	LXXXV.305	Amended	Feb	322	
					XLV.Chapters 1-11	Adopted	Mar	461	
28	I.901	Amended	Feb	246	LXXXV.704	Amended	Feb	317	
					I.901	Amended	Mar	458	
28	I.901	Amended	Feb	247	LXXXV.Chapter 12	Amended	Feb	317	
					I.921	Amended	Feb	249	
32	III.317, 701	Amended	Mar	488	LXXXV.Chapter 15	Adopted	Mar	489	
					V.317, 701	Amended	Mar	487	
33	III.207, 209, 211, 223	Amended	Feb	263	XLVII.3335	Amended	Jan	83	
					III.207, 209, 211, 223	Repromulgated	Mar	484	
33	III.223, 1951-1973	Amended	Mar	485	XLVII.3341	Amended	Jan	83	
					III.613, 615	Amended	Mar	486	
33	III.5901	Amended	Jan	69	XLVII.3505	Amended	Jan	83	
					V.Chapters 1,3,5,15,17,22	Amended	Feb	267	
33	V.Chapters 26,33,38,41,43	Amended	Feb	267	XLIX.1103	Repromulgated	Jan	82	
					IX.Chapter 1	Adopted	Jan	33	
37	XI.Chapter 23	Adopted	Feb	323	LXXXV.809, 811	Amended	Jan	84	
					XIII.8705, 8709	Amended	Jan	86	
37	XIII.8713-8717, 8721	Amended	Jan	86	55	I.301	Amended	Jan	95
					XIII.8723, 8725, 8727	Adopted	Jan	86	
37	XIII.8729, 8731	Amended	Jan	86	I.1903, 1907, 1909, 1917, 1921	Amended	Feb	347	
					XIII.Chapter 90	Adopted	Mar	500	
37	XIII.Chapter 91	Adopted	Feb	324	I.1933, 1939, 1941, 1945,	Amended	Feb	347	
					XIII.Chapter 91	Adopted	Feb	347	
37	XIII.Chapter 91	Adopted	Feb	324	I.1949, 1969	Amended	Feb	347	
					XIII.Chapter 91	Adopted	Jan	90	
37	XIII.Chapter 91	Adopted	Feb	324	I.Chapter 15	Amended	Jan	90	
					XIII.Chapter 91	Adopted	Jan	92	
37	XIII.Chapter 91	Adopted	Feb	324	I.Chapter 21	Adopted	Jan	92	
					XIII.Chapter 91	Adopted	Jan	89	
37	XIII.Chapter 91	Adopted	Feb	324	III.325, 327	Adopted	Jan	89	
					XIII.Chapter 91	Adopted	Jan	88	
37	XIII.Chapter 91	Adopted	Feb	324	III.1777, 1781	Amended	Jan	88	
					XIII.Chapter 91	Adopted	Jan	88	
37	XIII.Chapter 91	Adopted	Feb	324	58	V.1305	Adopted	Feb	294
					XIII.Chapter 91	Adopted	Feb	290	
37	XIII.Chapter 91	Adopted	Feb	324	V.1501	Amended	Feb	290	
					XIII.Chapter 91	Adopted	Feb	290	
37	XIII.Chapter 91	Adopted	Feb	324	V.1503	Amended	Feb	290	
					XIII.Chapter 91	Adopted	Feb	291	
37	XIII.Chapter 91	Adopted	Feb	324	V.1505	Amended	Feb	291	
					XIII.Chapter 91	Adopted	Feb	294	
37	XIII.Chapter 91	Adopted	Feb	324	V.1507	Amended	Feb	294	
					XIII.Chapter 91	Adopted	Feb	294	
37	XIII.Chapter 91	Adopted	Feb	324	V.1509	Amended	Feb	294	
					XIII.Chapter 91	Adopted	Jan	95	
37	XIII.Chapter 91	Adopted	Feb	324	61	I.4909	Adopted	Jan	95
					XIII.Chapter 91	Adopted	Mar	506	
37	XIII.Chapter 91	Adopted	Feb	324	V.101, 303, 703, 907, 1103, 1305	Amended	Mar	506	
					XIII.Chapter 91	Adopted	Mar	506	
37	XIII.Chapter 91	Adopted	Feb	324	V.1307, 1503, 2503, 2703-2707	Amended	Mar	506	
					XIII.Chapter 91	Adopted	Mar	506	
37	XIII.Chapter 91	Adopted	Feb	324	V.3101-3105, 3501	Amended	Mar	506	
					XIII.Chapter 91	Adopted	Feb	350	
37	XIII.Chapter 91	Adopted	Feb	324	67	III.301, 307, 309	Amended	Feb	350
					XIII.Chapter 91	Adopted	Feb	349	
37	XIII.Chapter 91	Adopted	Feb	324	III.1203, 1209, 1247	Amended	Feb	349	
					XIII.Chapter 91	Adopted	Feb	349	
37	XIII.Chapter 91	Adopted	Feb	324	III.1987	Amended	Feb	349	
					XIII.Chapter 91	Adopted	Feb	356	
37	XIII.Chapter 91	Adopted	Feb	324	III.2509	Amended	Feb	356	
					XIII.Chapter 91	Adopted	Feb	351	
37	XIII.Chapter 91	Adopted	Feb	324	III.Chapter 53	Adopted	Feb	351	
					XIII.Chapter 91	Adopted	Jan	96	
37	XIII.Chapter 91	Adopted	Feb	324	V.1105	Adopted	Jan	96	
					XIII.Chapter 91	Adopted	Jan	97	
37	XIII.Chapter 91	Adopted	Feb	324	70	I.513	Amended	Jan	97
					XIII.Chapter 91	Adopted	Feb	357	
37	XIII.Chapter 91	Adopted	Feb	324	73	III.301	Amended	Feb	357
					XIII.Chapter 91	Adopted	Jan	97	
37	XIII.Chapter 91	Adopted	Feb	324	76	VII.149	Amended	Jan	97
					XIII.Chapter 91	Adopted	Jan	98	
37	XIII.Chapter 91	Adopted	Feb	324	VII.193	Adopted	Jan	98	
					XIII.Chapter 91	Adopted	Mar	513	
37	XIII.Chapter 91	Adopted	Feb	324	VII.345	Amended	Mar	513	
					XIII.Chapter 91	Adopted	Mar	513	

Potpourri

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Department of Agriculture and Forestry Horticulture Division

Annual Quarantine Listing 2000

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

Sweetpotato Weevil

(Cylas formicarius elegantulus Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2) The property of Lera Bridges in Section 27, Township 18 North, Range 3 East.

Pink Bollworm

(Pectinophora gossypiella Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arkansas

- (1) Generally infested area: None.
- (2) Suppressive area: The entire county of Poinsett.

Arizona

- (1) Generally infested area: the entire state.

California

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

Nevada

(1) Generally infested area: The entire counties of Clark and Nyle.

- (2) Suppressive area: None.

New Mexico

- (1) Generally infested area: The entire state.

Oklahoma

- (1) Generally infested area: The entire state.

Texas

- (1) Generally infested area: The entire state.

Phytophagous Snails

The states of Arizona and California.

Sugarcane Pests and Diseases

All states outside of Louisiana.

Lethal Yellowing

The states of Florida and Texas.

Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

Oak Wilt (*Ceratocystis fagacearum*)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

Illinois

Entire state.

Indiana

Entire state.

Iowa

Entire state.

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey,

Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

Entire state.

Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

Entire state.

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected Counties: Blount, Carter, Coker, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties: all counties except Tucker and Webster.

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead,

Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

Citrus Canker [*Xanthomonas axonopodis* pv. *citri*]

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

Pine Shoot Beetle [*Tomicus piniperda* (L.)]

Illinois

Counties of Boone, Bureau, Cook, Champaign, De Kalb, DuBage, Grundy, Iroquois, Kane, Kankakee, Kendall, La Salle, Lake, Lee, Livingston, McHenry, McLean, Ogle, Piatt, Platt, Putnam, Stephenson, Will, Winnebago and Vermillion.

Indiana

Counties of Adams, Allen, Benton, Blackford, Carroll, Cass, Dekalb, Delaware, Elkhart, Fountain, Fulton, Grant, Hancock, Howard, Huntington, Jasper, Jay, Johnson, Kosciusko, Lagrange, Lake, LaPorte, Madison, Marshall, Miami, Newton, Noble, Parke, Porter, Pulaski, Randolph, Shelby, St. Joseph, Starke, Steuben, Tippecanoe, Tipton, Vermillion, Wabash, Warren, Wayne, Wells, White and Whitley.

Maryland

Counties of Allegany, Garrett and Washington.

Michigan

Counties of Alcona, Allegan, Alpena, Antrim, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Chippewa, Clare, Clinton, Crawford, Delta, Eaton, Emmet, Genesee, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Kalkasa, Kent, Lake, Lenawee, Lapeer, Leelanau, Livingston, Luce, Mackinac, Macomb, Manistee, Marquette,

Mason, Mecosta, Midland, Missaukee, Monroe, Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Saginaw, Sanilac, Schoolcraft, Shiawassee, St. Clare, St. Joseph, Tuscola, Van Buren, Washtenaw, Wayne and Wexford.

New York

Counties of Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Cortland, Erie, Genessee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Schuyler, Seneca, Steuben, Tompkins, Wayne, Wyoming and Yates.

Ohio

Counties of Allen, Ashland, Ashtabula, Auglaize, Belmont, Cameron, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Defiance, Delaware, Erie, Fulton, Geauga, Hancock, Hardin, Harrison, Henry, Hocking, Holmes, Huron, Jefferson, Knox, Lake, Licking, Logan, Lorain, Lucas, Mahoning, Marion, Medina, Mercer, Morgan, Morrow, Noble, Ottawa, Paulding, Perry, Portage, Putnam, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Tuscarawas, Union, Van Wert, Wayne, Williams, Wood and Wyndot.

Pennsylvania

Counties of Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Somerset, Venango, Warren, Washington and Westmoreland.

West Virginia

Counties of Brooke, Hancock, Ohio and Tyler.

Wisconsin

County of Grant.

Any other areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

Matthew Keppinger III
Assistant Commissioner and
State Entomologist

Bob Odom
Commissioner

0004#081

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

8-Hour Ozone Attainment and Nonattainment Areas

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq., and in accordance with the provisions of R.S. 30:2058 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the process to recommend to the EPA designation of parishes as attainment or nonattainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS) has been initiated. The Clean Air Act (CAA) requires that all areas not meeting the 8-hour ozone standard be designated as nonattainment.

The U.S. EPA requires states to submit to EPA their recommendations for area designations and boundaries by June 30, 2000. EPA's designation of the 8-hour ozone NAAQS will be based on the most recent three consecutive years of monitored air quality data, which are the years of 1997, 1998, and 1999. The air quality data for this period show that the following parishes do not meet the 8-hour ozone standard: Ascension, Bossier, Caddo, Calcasieu, East Baton Rouge, Iberville, Jefferson, Lafourche, Livingston and West Baton Rouge.

The EPA recommends that any parish with an ozone monitor showing a violation of the NAAQS and any nearby parish contributing emissions need to be designated as nonattainment. Further, the EPA recommends that the MSA/CMSA serve as the presumptive boundary for the 8-hour ozone nonattainment area. Parishes that may receive that ozone nonattainment status are: Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne and Webster.

The LDEQ is seeking comment on the establishment of geographic boundaries for the 8-hour ozone nonattainment areas. The public comment period begins on April 20, 2000 and ends at 4:30 p.m. on June 10, 2000, CST. Public hearings will be held as follows:

- (1) May 22, 2000, St. Tammany Parish Complex, 21490 Koop Drive, Mandeville, LA, at 10:00 a.m.
- (2) May 22, 2000, (Orleans Parish) State Office Building, 325 Loyola Avenue, 4th Floor, Room 409, New Orleans, LA, at 3:00 p.m.
- (3) May 22, 2000, (Jefferson Parish) Joseph S. Yenni Bldg., 122 Elmwood Park Blvd., Suite 509, Harahan, LA, at 6:00p.m.
- (4) May 25, 2000, LDEQ, 2nd Floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA, at 1:30 p.m.
- (5) May 26, 2000, Livingston Parish Courthouse, 20180 Iowa Street, Livingston, LA, at 10:00 a.m.
- (6) May 26, 2000, Ascension Parish Courthouse, 828-202 S. Irma Blvd., Gonzales, LA, at 3:00 p.m.
- (7) May 26, 2000, West Baton Rouge Parish Library, 830 N. Alexander, Port Allen, LA, at 6:00 p.m.
- (8) May 30, 2000, (Webster Parish) Minden Courthouse, 520 Broadway Drive, Minden, LA, at 9:00 a.m.
- (9) May 30, 2000, Bossier Parish Courthouse, 204 Burt Blvd., Benton, LA, at 3:00 p.m.
- (10) May 30, 2000, Caddo Parish Courthouse, 4th Floor, 501 Texas Street, Shreveport, LA, at 6:00 p.m.
- (11) May 31, 2000, St. Charles Parish Courthouse, 15045 Hwy. 18, Hahnville, LA, at 3:00 p.m.
- (12) May 31, 2000, St. John the Baptist Parish Courthouse, 1801 W. Airline Hwy., LaPlace, LA, at 6:00 p.m.
- (13) June 5, 2000, (Terrebonne Parish) E. Houma Library, 778 Grand Calillou Road, Houma, LA, at 10:00 a.m.
- (14) June 5, 2000, (Lafourche Parish) Stark Municipal Complex, 2nd Floor Court Room, 1309 Canal Blvd., Thibodeaux, LA, at 6:00 p.m.
- (15) June 6, 2000, (Calcasieu Parish) Lake Charles Courthouse, 326 Pujo, Lake Charles, LA, 10:00 a.m.
- (16) June 7, 2000, St. James Parish Courthouse, 5800 La. Hwy. 44, Convent, LA, at 10:00 a.m.

(17) June 7, 2000, Iberville Parish Courthouse, 58050 Merlam Street, Plaquemine, LA, at 6:00 p.m.

(18) June 9, 2000, St. Bernard Parish Complex Building, 8201 W. Judge Perez Drive, Chalmette, LA, at 2:00 p.m.

(19) June 9, 2000, (Plaquemines Parish) Belle Chase Library, 8442 Hwy. 23-B, Belle Chase, LA, at 6:00 p.m.

Interested persons are invited to attend and submit oral comments on the proposed nonattainment designations and geographic boundaries. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Faxed comments should be sent to Ms. Sharp at (225) 765-0617. Receipt of written comments must be no later than 4:30 p.m. on June 10, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the designation information may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, 5th Floor, Baton Rouge, LA or at one of the following regional offices:

(1) Southeast Regional Office, 3501 Chateau Boulevard – West Wing, Kenner, LA.

(2) Capital Regional Office, 5222 Summa Court, Baton Rouge, LA

(3) Acadiana Regional Office, 100 Asma Blvd., Suite 151, Lafayette, LA

(3) Southwest Regional Office, 3519 Patrick Street, Suite 265, Lake Charles, LA

(4) Northwest Regional Office, 1525 Fairfield, Room 11, Shreveport, LA

James H. Brent, Ph.D.
Assistant Secretary

0004#056

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Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Semiannual Regulatory Agenda

The Department of Environmental Quality announces the availability of the April 15, 2000, edition of the *Semiannual Regulatory Agenda* prepared by the Environmental Planning Division, Regulation Development Section. The current agenda contains information on rules that have been proposed but have not been published as final and rules that are scheduled to be proposed in 2000. The agenda is available on the Department's web site at <http://www.deq.state.la.us/planning/regs/index.htm>. Copies of the agenda may be purchased by contacting the Department of Environmental Quality, Office of Environmental Assessment, Regulation Development

Section, Box 82178, Baton Rouge, LA 70884-2178 or by calling (225) 765-0399. Check or money order is required in advance for each copy of the agenda.

James H. Brent, Ph.D.
Assistant Secretary

0004#048

POTPOURRI

Division of Administration Office of Community Development

FY 1999 Consolidated Annual Performance
and Evaluation Report
and

Consolidated Annual Action Plan For FY 2001

As set forth in 24 CFR Part 91, the U. S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana the four state agencies participating in this consolidated planning process and the HUD-funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV/AIDS Program (Housing Opportunities for Persons with AIDS Program). A summary of the four programs follows.

The Small Cities Community Development Block Grant Program provides financial assistance to parishes of less than 200,000 persons and municipalities with a population of less than 50,000 in their efforts to provide a suitable living environment, decent housing, essential community facilities, and expanded economic opportunities. Eligible activities include community infrastructure systems such as water, sewer, and street improvements, housing rehabilitation, and economic development assistance in the form of grants and loans. Projects funded under this program must principally benefit persons of low and moderate income.

The objectives of the HOME Investment Partnerships Program are: to expand the supply of decent and affordable housing for low and very low income persons, to stabilize the existing deteriorating owner occupied and rental housing stock through rehabilitation, to provide financial and technical assistance to recipients/subrecipients, and to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The purpose of the Emergency Shelter Grants Program is to help local governments and community organizations to

improve and expand shelter facilities serving homeless individuals and families, to meet the costs of operating homeless shelters, to provide essential services, and to perform homeless prevention activities.

The Housing Opportunities for Persons with AIDS Program provides localities with the resources and incentives to devise and implement long-term comprehensive strategies for meeting the housing needs of persons with acquired immuno-deficiency syndrome (AIDS) or related diseases and their families.

The four agencies implementing these programs are preparing their consolidated annual performance and evaluation report for the FY 1999 program year which ended March 31, 2000. The purpose of that document is to report on the progress the State has made in addressing the goals and objectives identified in its Consolidated Plan for FY 1995-FY 1999 and FY 1999 Consolidated Annual Action Plan.

The four agencies administering these programs are also beginning to prepare the Consolidated Annual Action Plan for FY 2001. The Consolidated Annual Action Plan will include a one year action plan for the proposed distribution of funds received under the FY 2001 federal funding allocation for the aforementioned four HUD programs.

The State will hold public hearings for a two-fold purpose regarding these programs.

The first purpose of the hearings will be to receive comments on the State's performance during the FY 1999 program year. Copies of the consolidated annual performance and evaluation report will be available for review and each agency will present a summary of its accomplishments as identified in the performance report. For those persons who are unable to attend the public hearings, copies of the performance report will be available for review beginning May 8, 2000, at the Office of Community Development, State Capitol Annex, 1051 North Third Street, Room 168 in Baton Rouge, at the Louisiana Housing Finance Agency at 200 Lafayette Street, Suite 300 in Baton Rouge, at the Department of Social Services/Office of Community Services at 333 Laurel Street, Room 606 in Baton Rouge, and at the Department of Health and Hospitals/HIV/AIDS Program Office at 234 Loyola Avenue, Fifth Floor in New Orleans. Written comments on the performance report may be submitted beginning May 8, 2000, and will be accepted until May 26, 2000. Comments may be submitted to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095.

The second purpose of the hearings will be to obtain views on the housing and community development needs throughout the State; those comments will assist the agencies in developing the Consolidated Annual Action Plan for FY 2001. For those persons who are unable to attend the public hearings, written comments on the needs of the State may be submitted beginning May 8, 2000, and will be accepted until May 26, 2000. Written comments may be submitted to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095.

The public hearings will be held on May 8, 2000, at 1:30 p.m. in Room 101 in the West Baton Rouge Governmental Building, 880 North Alexander Street, Port Allen, Louisiana, and at 1:30 p.m. on May 9, 2000, in the Council Chambers at the Pineville City Hall, 910 Main Street, Pineville,

Louisiana. These facilities are accessible to persons with physical disabilities. Non-English speaking persons and persons with other disabilities requiring special accommodations should contact the Office of Community Development at (225) 342-7412 or TDD (225) 342-7422 or at the mailing address in the preceding paragraph at least five working days prior to each hearing.

Mark C. Drennen
Commissioner

0004#080

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Notice to Conduct Restoration Planning Four Bayou Pass Oil Spill

The Louisiana Oil Spill Coordinator's Office (LOSCO), Louisiana Department of Environmental Quality (LDEQ), Louisiana Department of Natural Resources (LDNR), Louisiana Department of Wildlife and Fisheries (LDWF), and the U.S. Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS), have determined that the impacts of the November 24, 1999 discharge of crude oil by Chevron Pipe Line Company warrants conducting a natural resource damage assessment, which will include restoration planning.

On November 24, 1999, the Chevron pipeline ruptured, discharging 850 BBLs of crude oil into Four Bayou Pass, Plaquemines Parish, Louisiana. Portions of Barataria Bay and Gulf of Mexico surface waters, marsh and other habitats and the fauna inhabiting this area were exposed to crude oil as a result of this discharge. Chevron Pipe Line Company has been named by the United States Coast Guard as the responsible party for this incident, pursuant to §2714 of the Oil Pollution Act of 1990, 33 U.S.C. §2700 et seq. (OPA).

Four Bayou Pass is a shallow estuarine bay system characterized by soft organic sediment. Tidal amplitude is small, driven primarily by wind. It is bordered by extensive acreage of salt marsh, which is critical nursery habitat for numerous species and provides many other ecological services. The Four Bayou Pass area also includes bayous, channels and small islands. Aquatic species present include, but are not limited to estuarine and estuarine-dependent white and brown shrimp, blue crabs, oysters and finfish. Wildlife species that may be present in Four Bayou Pass include, but are not limited to resident and migratory birds, furbearers, marine mammals and sea turtles. Some of the species that may be present have threatened or endangered status. The area is used for fishing, hunting, boating, shrimping, oyster harvesting and other commercial and recreational activities.

The natural resource trustees for this incident are DOI, LOSCO, LDEQ, LDNR, and LDWF. These trustees are designated pursuant to 33 U.S.C. §2706(e), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. Part 300.600 and 300.605. Pursuant to L.R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan, September 1995, describes the state trust resources, which include the following: vegetated wetlands, surface waters, ground

waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. DOI has been designated as trustee for the natural resources that it manages or controls. Examples of those resources as described within the National Contingency Plan, 40 C.F.R. §300.600(b)(2) and (3), include the following and their supporting ecosystems: migratory birds, anadromous fish, endangered species and marine mammals, federally owned minerals, certain federally managed water resources, and natural resources located on, over, or under land administered by the Department. In the case at hand, the trust resources of concern are migratory birds and those are managed by the USFWS, which represents DOI in this matter.

Following the notice of the discharge, the natural resource trustees made the following determinations required by 15 C.F.R. §990.41: The natural resource trustees have jurisdiction to pursue restoration pursuant to OPA. The trustees have determined that the release of 850 BBLs of crude oil into the waters of Four Bayou Pass on November 24, 1999 was an incident as defined in 15 C.F.R. §990.30. This incident is not permitted under state, federal or local law. Using information gathered since the beginning of the incident during the response and natural resource damage assessment initiation phases, the trustees have determined that natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The oil released contains components that are toxic to aquatic organisms, birds, wildlife and vegetation at sufficiently high exposure levels. Vegetation, birds, and aquatic organisms were observed to have been exposed to this oil from this discharge and mortalities to some flora and fauna resulted from this incident.

Since the conditions of 15 C.F.R. §990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 C.F.R. §990.41(b) to proceed with preassessment. Chevron Pipe Line Company, at the invitation of the trustees, agreed to participate in and to provide funding for the preassessment. They have been cooperative in sharing data, providing transportation for the trustees to the spill location, and have assisted in a follow-up investigation of the impact area conducted shortly after the initial spill.

For the reasons discussed below, the natural resource trustees have made the determinations required by 15 C.F.R. §990.42(a), and are providing notice pursuant to 15 C.F.R. §990.44 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident. The trustees base this determination upon data which was collected and analyzed pursuant to 15 C.F.R. 990.43 and which demonstrates that resources and services have been injured. Natural resources injured as a result of the spill and spill response may include, but are not limited to: benthic communities, water quality, vegetated wetlands, fish and

wildlife species and recreational use opportunity. It is estimated that several hundred acres of marsh, sand shorelines, and open water habitat were exposed to at least oil sheen.

Response actions have not adequately addressed the injuries resulting from the incident. Although response actions were initiated promptly and pursued with appropriate effort, the nature of the discharge and the sensitivity of the environment precluded complete prevention of injuries to natural resources. It is anticipated that injured natural resources will eventually return to baseline, but there is a potential for interim losses to have occurred, and to continue to occur until return to baseline is achieved.

Feasible primary and compensatory restoration actions exist to address injuries from this incident. Potential restoration actions include, but are not limited to: replanting *Spartina alterniflora* in areas denuded by the spill; creation, enhancement or protection of marsh; creation of oyster reef habitat; and creation of bird colony areas.

Assessment procedures are to be used to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources are available. Among the available procedures are marsh injury assessment studies to be used in conjunction with Habitat Equivalency Analysis to determine compensation for injuries to marsh vegetation and marsh services. Models or other approaches are available for evaluating injuries to fauna. Where models and other techniques fail to reflect migratory bird and threatened/endangered species injury, estimates of appropriate levels of injury to birds will be made by the trustees based upon: observations by wildlife officials, professional experience, knowledge of the habitat utilization by birds, and other factors.

Pursuant to 15 C.F.R. §990.44(c), the Trustees seek public involvement in restoration planning for this petroleum discharge, through public review of and comment on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft and Final Restoration Plans when they have been prepared.

For more information, please contact the Louisiana Oil Spill Coordinator's Office/Office of the Governor, (Attn: Warren P. Lorentz), 625 N. 4th Street, Suite 800, Baton Rouge, LA 70802; phone (225) 219-5800.

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the state of Louisiana, and DOI, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d), hereby provides Chevron Pipe Line Company this Notice of Intent to Conduct Restoration Planning and invites their participation in the conduct of that restoration planning.

Roland J. Guidry
Louisiana Oil Spill Coordinator

0004#055

POTPOURRI

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, June 3, 2000, at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

0004#063

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
W. C. Allen, et al	Bellevue	Arkansas Fuel Oil	001	122782
W. C. Allen, et al	Bellevue	Ardis & Company Inc	001	120872
Sam Backus, et al	Bellevue	Wurtsbaugh-Knighton et al	001	106113
Sam Backus, et al	Bellevue	Wurtsbaugh-Knighton et al	007	106454
Chas. L. Barnett	Caddo Pine Island	State-Backus et al	001	074337
Barnwell Drilling Co. Inc.	Bellevue	Wurtsbaugh	002	096215
Douglas Bell	Caddo Pine Island	Craig	001	149509
Douglas Bell	Caddo Pine Island	Bickham	001	149970
Buford & Barnes et al	Bellevue	Lodwick Lbr Co	001	031227
Crow Drilling & Producing Co.	Bellevue	Kendrick	001	062646
W. K. Davis	Port Barre	Marie S LaHaye	001	071047

Delta Production Co.	Bellevue	Lodwick Lbr Co	001	058794
Edwards & Aber	Charenton	Paul LeBlanc	001	021875
Lafourche Realty	East Golden Meadow	Lafourche Realty	001	990429
J. C. Mayfield	Bellevue	Ardis & Co	B-2	040408
J. C. Mayfield	Bellevue	Ardis & Co	B-4	048081
J. C. Mayfield	Bellevue	Lodwick Lumber Co	016	041022
J. C. Mayfield, et al	Bellevue	Lodwick Lbr Co	009	053357
J. C. Mayfield & R. S. Barnwell, Jr.	Bellevue	Ardis & Co	001-C	040602
J. C. Mayfield & R. S. Barnwell, Jr.	Bellevue	Ardis	C-2	041966
Mississippi River Fuel Corp.	East Golden Meadow	Lafourche Realty	002	103020
Monegue Oil Co.	Tullos-Urania	Monegue Oil Co	001	023270
Montague Oil Co.	Tullos Urania	Zenorla Lbr Co	007	990430
Tommy Neal	Port Barre	Haas-Hirsch	002	074611
Oil & Gas Property Mgrmt., Inc.	Point Chicot	Nettie M Jones	001	104565
George H. Pierce	Bellevue	Wurtsbaugh Knighton, et al	004	104022
George H. Pierce	Bellevue	Wurtsbaugh Knighton, et al	010	105917
Pioneer Oil and Gas Co., Inc.	Point Chicot	W Alton Jones	004	081725
Pioneer Oil and Gas Co., Inc.	Point Chicot	W Alton Jones	003	081169
Recile-Chaft Oil Corp.	Vinton	M Gray	001	069882
Samedan, Tesoro & Lynam, Inc.	Wildcat	Lafourche Realty	001	141503
San Siegel, Unit Operator	Bellevue	Lodwick Lumber Co	C-1	042298
Vincent & Welch & McGhee	West Tepestate	Arthur Ardoin	001	027174
Vinton Petroleum Co. of Texas	Vinton	Gray Estate	001	005116
Vinton Petroleum Co. of Texas	Vinton	Gray Estate	026	005170

Vinton Petroleum Co. of Texas	Vinton	Gray Estate	063	048701
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Philip N. Asprodites
Commissioner of Conservation

0004#076

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 10 claims in the amount of \$29,644.51 were received during the period March 2000. There were 10 claims paid and 0 claims denied. Loran Coordinates of reported underwater obstructions are:

26537	46979	Cameron
26665	46978	Cameron
26943	46961	Cameron
28085	46888	Terrebonne
28976	46778	Plaquemines

A list of claimants and amounts paid, can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396 Baton Rouge, LA 70804, or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0004#077

POTPOURRI

**Department of Revenue
Severance Tax Division**

Severance Tax Rate on Natural Gas

Pursuant to the authority granted by R.S. 47:633(9)(d)(ii), the Department of Natural Resources has determined the "gas base rate adjustment" for the twelve-month period ending March 31, 2000, to be 1.3855. Accordingly, the Department of Revenue has determined the severance tax rate on natural gas and related products described in R.S. 47:633(9)(a) to be 9.7 cents per thousand cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of sixty degrees Fahrenheit, effective July 1, 2000.

The reduced rates provided for in R.S. 47:633(9)(b) and (c) are not affected by this adjustment and remain the same.

The determination of this "gas base rate adjustment" and corresponding tax rate and their publication in the *Louisiana Register* shall not be considered rule making within the intention of the Administrative Procedures Act, R.S. 49:950 et seq.

Questions should be directed to Carl Reilly, Director of the Severance Tax Division at (225) 925-7497.

Brett Crawford
Secretary

0004#078

POTPOURRI

**Department of Social Services
Office of Family Support**

FITAP/FIND Work Programs
TANF Caseload Reduction Report

The Department of Social Services, Office of Family Support, hereby gives notice that, in accordance with federal regulations at 45 CFR 261.40, the Temporary Assistance to Needy Families (TANF) Caseload Reduction Report for Louisiana is now available to the public for review and comment.

In order to receive a caseload reduction credit for minimum participation rates, the agency must submit a report based on FITAP and FIND Work Program data containing the following information:

1. a listing of, and implementation dates for, all State and Federal eligibility changes, as defined at §261.42, made by the State since the beginning of FY 1995;
2. a numerical estimate of the positive or negative impact on the applicable caseload of each eligibility change (based, as appropriate, on application denials, case closures, or other analyses);
3. an overall estimate of the total net positive or negative impact on the applicable caseload as a result of all such eligibility changes;
4. an estimate of the State's caseload reduction credit;
5. the number of application denials and case closures for fiscal year 1995 and the prior fiscal year;
6. the distribution of such denials and case closures, by reason, for fiscal year 1995 and the prior fiscal year;
7. a description of the methodology and the supporting data that it used to calculate its caseload reduction estimates;
8. a certification that it has provided the public an appropriate opportunity to comment on the estimates and methodology, considered their comments, and incorporated all net reductions resulting from Federal and State eligibility changes; and
9. a summary of all public comments.

Copies of the TANF Caseload Reduction Report may be obtained by writing Sammy Guillory, Department of Social Services, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana 70804-9065, by telephone at (225) 342-6824, or via E-mail at sguillor@dss.state.la.us.

Written comments regarding the report should also be directed to Mr. Guillory. These must be received by close of business on May 31, 2000.

J. Renea Austin-Duffin
Secretary

0004#064

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