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# Executive Orders

## EXECUTIVE ORDER MJF 99-46

### Secondary School Redesign Study Commission

WHEREAS, Executive Order No. MJF 99-42, signed on August 26, 1999, established the Secondary School Redesign Study Commission (hereafter "Commission") within the executive department, Office of the Governor; and

WHEREAS, it is necessary to amend Executive Order No. MJF 99-42 in order to add an at-large member to the Commission;

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

SECTION 1: Section 5 of Executive Order No. MJF 99-42 is amended to provide as follows:

The Commission shall be composed of a maximum of thirty-four (34) members who shall be appointed by, and serve at the pleasure of, the governor, selected as follows:

- A. The governor, or the governor's designee;
- B. The governor's chief of staff, or the chief of staff's designee;
- C. Two (2) members of the Louisiana Senate;
- D. Two (2) members of the Louisiana House of Representatives;
- E. Four (4) members of the State Board of Elementary and Secondary Education (BESE);
- F. The superintendent of the Department of Education or the superintendent's designee;
- G. Two (2) members of the Louisiana Community and Technical College Board;
- H. The president of the Louisiana Community and Technical College System, or the president's designee;
- I. One (1) member of the Louisiana Workforce Commission;
- J. The executive director of the Louisiana Workforce Commission, or the executive director's designee;
- K. An employer representative;
- L. A representative from the Louisiana School Boards Association;
- M. A superintendent of a school system in an urban area;
- N. A superintendent of a school system in a rural area;
- O. A central office administrator within a school system in an urban area;
- P. A principal from a high school that has implemented the "High Schools That Work" model and/or extensive career academies;
- Q. A principal of an alternative or vocational school;

R. A representative of the Louisiana Federation of Teachers;

S. A representative of the Louisiana Association of Educators;

T. A representative of the Associated Professional Educators of Louisiana;

U. A special education teacher or supervisor;

V. A parent representative;

W. A representative of the Council for a Better Louisiana;

X. A representative of the Louisiana Association of Business and Industry;

Y. A representative of a School-to-Work project;

Z. A representative of the AFL-CIO; and

AA. Two (2) at-large members.

SECTION 2: All other sections and subsections of Executive Order No. MJF 99-42 shall remain in full force and effect.

SECTION 3: The provisions of this Order are 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1999.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9911#067

## EXECUTIVE ORDER MJF 99-47

### Bond Allocation—Industrial Development Board of the Parish of Calcasieu, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act No. 51 of the 1986 Regular Session of the 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 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Industrial Development Board of the Parish of Calcasieu, Inc., has requested an allocation from

**EXECUTIVE ORDER MJF 99-48**

**Bond Allocation—Rapides Finance Authority**

the 1999 Ceiling to be used in connection with financing the acquisition, construction and equipping of certain sewage and solid waste treatment and disposal facilities at a refinery for HydroServe Westlake, L.L.C., located within the parish of Calcasieu, state of Louisiana (hereafter "Project"), 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 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$5,100,000	Industrial Development Board of the Parish of Calcasieu, Inc.	HydroServe Westlake, L.L.C.

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's 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, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 1999.

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 9th day of November, 1999.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9911#068

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act No. 51 of the 1986 Regular Session of the 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 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Rapides Finance Authority has requested an allocation from the 1999 Ceiling to be used in connection with financing the acquisition, construction and installation of certain sewage and solid waste disposal facilities at the Pineville pulp and paper mill of International Paper Company, located at 300 Williams Lake Road, Pineville, parish of Rapides, state of Louisiana (hereafter "Project"), 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 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$3,233,350	Rapides Finance Authority	International Paper Company

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's 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, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 1999.

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 9th day of November, 1999.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9911#069

**EXECUTIVE ORDER MJF 99-49**

Bond Allocation—Industrial Development  
Board of the Parish of Calcasieu, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act No. 51 of the 1986 Regular Session of the 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 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Industrial Development Board of the Parish of Calcasieu, Inc., has requested an allocation from the 1999 Ceiling to be used in connection with financing the acquisition, construction and installation of certain wastewater treatment facilities at the refinery facilities of CITGO Petroleum Corporation, located at 4401 Highway 108, Lake Charles, parish of Calcasieu, state of Louisiana (hereafter "Project"), 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 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$5,000,000	Industrial Development Board of the Parish of Calcasieu, Inc.	CITGO Petroleum Corporation

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's 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, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 1999.

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 9th day of November, 1999.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9911#070

**EXECUTIVE ORDER MJF 99-50**

Bond Allocation—Parish of Ascension

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act No. 51 of the 1986 Regular Session of the 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 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the parish of Ascension, state of Louisiana, has requested an allocation from the 1999 Ceiling to be used in connection with financing the acquisition, construction and installation of certain solid waste and sewage disposal facilities for BASF Corporation, located at 8404 Highway 75, Geismar, parish of Ascension, state of Louisiana (hereafter "Project"), 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 1999 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$10,000,000	Parish of Ascension State of Louisiana	BASF Corporation

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's 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, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 1999.

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 9th day of November, 1999.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9911#071

# Emergency Rules

## DECLARATION OF EMERGENCY

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

Privately Owned Sewage Treatments  
(LAC 33:IX.2331, 2381, 2383, 2385,  
2769, and 2801-2809)(WP035E1)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under authority of R.S. 30:2011, the Secretary of the Department of Environmental Quality declares that an emergency action is necessary as a result of Act 399 of the 1999 Legislative Session, which required all privately-owned sewage treatment facilities, regulated by the Public Service Commission, to obtain financial security prior to receiving discharge authorization. This Act applies to any issuance, renewal, modification, or transfer of such permits after July 1, 1999, and mandates that the Department establish by rule the acceptable forms of financial security and the amount of financial security required for the various types and sizes of facilities. Therefore, after July 1, 1999, and until the necessary rule is in effect, the Department would be required to withhold all new discharge permits, renewal of existing, modification of existing, and transfers of existing discharge permits to all privately-owned, for-profit community sewage treatment facilities.

This is a renewal of Emergency Rule WP035E, adopted on July 1, 1999, and published in the *Louisiana Register* on July 20, 1999. The text of the July 1, 1999 rule has been revised.

The delays inherent in the normal rulemaking process would imperil public health, safety, and welfare by precluding the legal operation of some sewage treatment facilities subject to Act 399. The legal operation of those sewage treatment facilities is essential for the proper treatment of sewage, necessary to reduce disease-causing microorganisms and pollutants that are harmful to fish and other aquatic life. The cessation of operation of such a treatment facility, as would be required by law, would necessitate either bypassing the treatment facility (resulting in the discharge of untreated sewage) or blocking all flow of sewage through the collection system (rendering uninhabitable every building served by that system). The Department cannot ensure protection of public health, welfare, and the environment without the issuance of discharge permits with proper effluent limitations and monitoring requirements.

The immediate impact of this rule is to give effect to the terms and conditions of Act 399, thus allowing the Department to continue regulating treated sanitary discharges from private treatment facilities which serve large segments of Louisiana's population.

This emergency rule is effective October 29, 1999, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever comes first. For more information concerning WP035E1, you may contact the Regulation Development Section at (225) 765-0399. Adopted this 29th day of October, 1999.

## Title 33

### ENVIRONMENTAL QUALITY

#### Part IX. Water Quality Regulations

#### Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program Subchapter B. Permit Application and Special LPDES Program Requirements

#### §2331. Application for a Permit

\* \* \*

[See Prior Text in A - O. Editorial Note]

P. Additional Requirements for Privately-Owned Sewage Treatment Facilities Regulated by the Public Service Commission. Privately-owned sewage treatment facilities regulated by the Public Service Commission must also comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W. Following receipt of the permit application the administrative authority shall calculate and subsequently notify the applicant of the "waste discharge capacity per day" for the facility. The applicant will use this figure to determine the amount of the financial security required by LAC 33:IX.Chapter 23.Subchapter W. The applicant shall subsequently obtain and supply the department with the financial security document in accordance with LAC 33:IX.Chapter 23.Subchapter W. No permit shall be issued after July 1, 1999, without the required financial security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

#### Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination

#### §2381. Transfer of Permits

\* \* \*

[See Prior Text in A - B.1]

2. the notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them;

3. the state administrative authority does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this Subsection may also be a minor modification under LAC 33:IX.2385. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in LAC 33:IX.2381.B.2; and



4. additional requirements are met for privately-owned sewage treatment facilities regulated by the Public Service Commission when transferred after July 1, 1999. The new permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

**§2383. Modification or Revocation and Reissuance of Permits**

\* \* \*

[See Prior Text in A - B.2]

C. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

**§2385. Minor Modifications of Permits**

A. Upon the consent of the permittee, the state administrative authority may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of LAC 33:IX.Chapter 23.Subchapters E–G. Any permit modification not processed as a minor modification under this Section must be made for cause and with LAC 33:IX.Chapter 23.Subchapters E–G draft permit and public notice as required in LAC 33:IX.2383. Minor modifications may only:

1. correct typographical errors;
2. require more frequent monitoring or reporting by the permittee;
3. change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
4. allow for a change in ownership or operational control of a facility where the state administrative authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the state administrative authority. The new permittee of a privately-owned sewage treatment facility regulated by the Public Service Commission must additionally comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W.

\* \* \*

[See Prior Text in A. 5 - 7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

**Subchapter V. Additional Requirements Applicable to the LPDES Program**

**§2769. Additional Requirements for Permit Renewal and Termination**

A. The following are causes, in addition to those found in LAC 33:IX.2387, for terminating a permit during its term or for denying a permit renewal:

\* \* \*

[See Prior Text in A.1]

2. due consideration of the facility's history of violations and compliance;

3. change of ownership or operational control (see LAC 33:IX.2381); and/or

4. failure to provide or maintain financial security in accordance with LAC 33:IX.Chapter 23.Subchapter W.

\* \* \*

[See Prior Text in B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:726 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

**Subchapter W. Financial Security**

**§2801. Applicability**

A. This Subsection shall be applicable to the following actions, for privately-owned sewage treatment facilities regulated by the Public Service Commission, when taken after July 1, 1999:

1. issuance of a new discharge permit;
2. renewal of an existing discharge permit;
3. modification of an existing discharge permit; and
4. transfer of an existing discharge permit to a different permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

**§2803. Acceptable Form of Financial Security**

A. Financial security required by R.S. 30:2075.2 may be established by any one or a combination of the following mechanisms:

1. Surety Bond. The requirements of this Section may be satisfied by obtaining a surety bond that conforms to the following requirements:

a. the bond must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services, Box 82231, Baton Rouge, LA 70884-2231;

b. the bond must be executed by the permittee and a corporate surety licensed to do business in Louisiana. The surety must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the

U.S. Department of the Treasury and be approved by the administrative authority;

c. under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond;

d. under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority at the address indicated in Subsection A.1.a of this Section. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts; and

e. the wording of the surety bond must be identical to the following, except that material in brackets is to be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond was executed: \_\_\_\_\_

Effective date: \_\_\_\_\_

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: \_\_\_\_\_

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility permit number, facility address, amount for each facility guaranteed by this bond]

Total penal sum of bond: \$ \_\_\_\_\_

Surety's bond number: \_\_\_\_\_

Know All Persons By These Presents That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us and, for all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq., to have a permit in order to discharge wastewater from the facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for the conditions specified in LAC 33:IX.Chapter 23.Subchapter W, as a condition of the permit; and

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform, in a timely manner, the requirements of LAC 33:IX applicable to the facility for which this bond guarantees the requirements of LAC 33:IX, in accordance with the other requirements of the

permit as such permit may be amended and pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide other financial assurance as specified in LAC 33:IX.Chapter 23.Subchapter W and obtain written approval of the administrative authority of such assurance within 90 days after the date of notice of cancellation of this bond is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the requirements of LAC 33:IX or of its permit, for the facility for which this bond guarantees performances of the requirements of LAC 33:IX.Chapter 23.Subchapter W, the Surety shall either perform the requirements of LAC 33:IX.Chapter 23.Subchapter W, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to permit, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed, beginning on the date that both the Principal and the administrative authority received the notice of cancellation as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.2803.A.1, effective on the date this bond was executed.

PRINCIPAL  
[Signature(s)]

[Name(s)]  
[Title(s)]  
CORPORATE SURETY  
[Name and address]  
State of incorporation: \_\_\_\_\_  
Liability limit: \$ \_\_\_\_\_  
[Signature(s)]  
[Name(s) and title(s)]  
[For every cosurety, provide signature(s) and other information in the same manner as for Surety above.]  
Bond premium: \$ \_\_\_\_\_

Letter of Credit. The requirements of this Section may be satisfied by obtaining a Letter of Credit that conforms to the following requirements:

a. the letter of credit must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services, Box 82231, Baton Rouge, LA 70884-2231;

b. the issuing institution must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency;

c. the letter of credit must be irrevocable and issued for a period of at least one year, unless at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority at the address indicated in Subsection A.2.a of this Section by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts; and the wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

#### IRREVOCABLE LETTER OF CREDIT

Secretary  
Louisiana Department of Environmental Quality  
Financial Services  
Post Office Box 82231  
Baton Rouge, Louisiana 70884-2231

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No.

\_\_\_\_\_ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the conditions specified in LAC 33:IX.Chapter 23.Subchapter W for its [list site identification number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$ \_\_\_\_\_ upon presentation of:

- (1). A sight draft, bearing reference to the Letter of Credit No. \_\_\_\_\_ drawn by the administrative authority, together with;
- (2). A statement, signed by the administrative authority, declaring that the amount of the draft is payable pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current

expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:IX.2803.A.2, effective on the date shown immediately below.

[Signature(s) and title(s) of  
official(s) of issuing  
institution(s)]  
[date]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

#### §2805. Amount of Required Financial Security

A. The amount of the financial security must be equal to or greater than \$1 per gallon of wastewater discharge per day from the facility, as determined by the administrative authority, up to a maximum of \$25,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

#### §2807. Conditions for Forfeiture

A. The secretary or his designee may enter an order requiring forfeiture of all or part of the financial security, if he determines that:

1. the continued operation or lack of operation and maintenance of the facility covered by this Subsection represents a threat to public health, welfare, or the environment because the permittee is unable or unwilling to adequately operate and maintain the facility or the facility has been actually or effectively abandoned by the permittee. Evidence justifying such determination includes, but is not limited to:

- a. the discharge of pollutants exceeding limitations imposed by applicable permits;
- b. failure to utilize or maintain adequate disinfection facilities;
- c. failure to correct overflows or backups from the collection system;
- d. a declaration of a public health emergency by the state health officer; and

e. a determination by the Public Service Commission that the permittee is financially unable to properly operate or maintain the system;

2. reasonable and practical efforts under the circumstances have been made to obtain corrective actions from the permittee; and

3. it does not appear that corrective actions can or will be taken within an appropriate time as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

#### **§2809. Use of Proceeds**

The proceeds of any forfeiture shall be used by the secretary, or by any receiver appointed by a court under R.S. 30:2075.3, to address or correct the deficiencies at the facility or to maintain and operate the system, as deemed necessary by the secretary under LAC 33:IX.2807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:

J. Dale Givens  
Secretary

9911#008

#### **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 La 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 December 1, 1999, 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

9911#045

#### **DECLARATION OF EMERGENCY**

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

##### **Penalty for Late Payment of Premiums**

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, and in accordance with R.S. 42: 876 regarding collection and deposit of contributions, the Board of Trustees hereby invokes the Emergency Rule provisions of La R. S. 49:953(B).

The Board finds that it is necessary, in the implementation of its responsibility for collection of premium contributions, to provide for assessment of a late payment penalty to participating employers that fail to remit full payment of premiums by the due date. Failure to adopt this rule on an emergency basis will result in financial impact adversely affecting 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 is effective January 1, 2000, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

##### **Collection and Deposit of Contributions**

A. The Board shall be responsible for preparing and transmitting to each participating employer a monthly invoice premium statement delineating the enrolled employees of that agency, the class of coverage, total amount of employer and employees contributions due to the Board, and such other items as are deemed necessary by the Board.

B. It shall be the responsibility of the participating employer to reconcile the monthly invoice premium statement, collect employee contribution by payroll deduction or otherwise, and remit the reconciled monthly invoice premium statement and both the employer and employee contributions to the Board within thirty (30) days after receipt of the monthly premium invoice statement. Payments received by the Board shall be allocated as follows:

1. first, to any late payment penalty due by the participating employer;
2. second, to any balance due from prior invoices; and
3. third, to the amount due under the current invoice.

C. If any participating employer fails to remit, in full, both the employer and employee contributions to the Board within thirty (30) days after receipt of the monthly invoice premium statement, then:

1. at the request of the Board, the state treasurer shall withhold from state funds due the participating employer the full amount of the delinquent employer and employee contributions and remit this amount directly to the Board; and

2. the participating employer shall pay a penalty equal to one (1%) percent of the total amount due and unpaid, compounded monthly.

D. All employer and employee premium contributions for the payment of premiums for group benefits for state employees provided under the Board's authority shall be deposited directly with the Board. The Board shall pay all monies due for such benefits as they become due and payable.

A. Kip Wall  
Interim Chief Executive Officer

9911#046

## 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 La 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 December 1, 1999, 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

9911#044

**DECLARATION OF EMERGENCY**

**Office of the Governor  
Division of Administration  
State Land Office**

Wax Lake Waterfowl Hunting Season—1999-2000

The Division of Administration, State Land Office, has adopted the following emergency rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., which emergency rule will be effective November 15, 1999 and remain in effect for 120 days or until finalized as a rule, whichever comes first.

Emergency adoption is necessary because of a dispute between the State of Louisiana and Miami Corporation over the ownership of water bottoms and accretion areas generally between the North end of Wax Lake and the mouth of Little Wax Bayou. Miami Corporation has previously granted hunting leases to various parties in this area; and the State previously posted signs in this area evidencing the State's claims, leading some members of the public to assume that the area was open to unlimited hunting and other access, including the right to construct permanent hunting blinds in the area. Problems exist with enforcement of trespass laws in that portion of the Wax Land area claimed by Miami Corporation and the State during duck hunting season, therefore both Miami Corporation and the State are united in their efforts to avoid any confrontation among armed hunters in this area, and deem it advisable to create a uniform set of rules for use of the area during the opening hunting season.

**Emergency Rule**

Effective November 15, 1999 and therefore, the State Land Office adopts the following rules to govern use of the area of Wax Lake claimed by the State for hunting during the duration of the 1999-2000 waterfowl hunting season.

1. For purposes of these regulations, "Wax Lake Area" shall include lands and water bottoms within Sections 34, 35, 44, and 45, Township 16 South, Range 10 East, St. Mary Parish, said area generally lying between the north limit of Wax Lake and the mouth of Little Wax Bayou. The lands and water bottoms within the Wax Lake Area are subject to competing claims of the State and private landowners.

2. No one shall use marsh buggies within the Wax Lake Area. Air boats shall be allowed within the channel of Wax Lake Outlet only.

3. Certain improvements have been placed on the area by parties claiming through private landowners. Pending resolution of the title disputes between the State and those landowners, those improvements may remain in place, and any new permanent improvements shall be spaced a minimum of 500 feet from any existing or newly constructed improvements. All blinds, stands, or other improvements placed on the lands or water bottoms for use in hunting shall be removed upon termination of the legal hunting seasons. Other than such temporary hunting blinds as may be constructed for personal use, no party shall construct any buildings, levees, dams, fences, or other structures or facilities on the lands or water bottoms within the Wax Lake Area, nor dredge or dig any additional canals, ditches, or ponds thereon or otherwise change or alter the premises in any manner.

4. No member of the public is allowed to "stake a claim" to any particular location within areas owned or claimed by the State of Louisiana for any purpose. Construction of permanent blinds shall not give such party any right to exclude others.

Mark C. Drennen  
Commissioner of Administration

9911#005

**DECLARATION OF EMERGENCY**

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

Sanitary Code—Commercial Body Art

In accordance with the emergency provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, and under authority of Act 393 of 1999 which enacted R.S. 40:2741 through 40:2744, the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, Sanitarian Services Section, Food and Drug Unit under the direction of the State Health Officer hereby declares that unregulated tattooing, body piercing, and permanent cosmetic procedures may pose a health hazard to consumers within the state of Louisiana.

These rules will be incorporated into the State Sanitary Code and will become Chapter XXVIII of that Code as provided for in R.S. 40:4. This chapter of the Sanitary Code establishes uniform rules for the operation of commercial body art facilities within the state. A commercial body art facility means any location, place, area, or business, whether permanent or temporary, which provides consumers access to personal service workers who for remuneration perform tattooing of the skin, body piercing or the application of permanent cosmetics to the skin. These rules do not apply to ear piercing with a disposable single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear. These rules do not apply to physicians licensed by the Louisiana State Board of Medical Examiners.

This declaration of emergency is being adopted effective December 1, 1999 and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule or which ever occurs first.

## Chapter XXVIII. Commercial Body Art Regulation

### 28:001. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code are defined for the purposes thereof as follows:

*Antiseptic*—means an agent that destroys disease causing microorganisms on human skin or mucosa.

*Aftercare*—means written instructions given to the consumer, specific to the body art procedure(s) rendered, on caring for the body art and surrounding area. These instructions will include information when to seek medical treatment, if necessary.

*Body Art*—means the practice of physical body adornment by registered establishments and operators utilizing, but not limited to, the following techniques: tattooing, cosmetic tattooing, body piercing, branding and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin, and shall not be performed in a commercial body art facility. This definition does not include the piercing of the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear piercing system.

*Body Piercing*—means puncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, except puncturing the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system shall not be included in this definition.

*Branding*—means inducing a pattern of scar tissue development by means of a heated instrument.

*Client*—means a consumer requesting the application of a tattoo, body piercing services or permanent cosmetic application services

*Commercial Body Art Facility*—as defined herein and in LSA-R.S. 40:2741 means any location, place, area, or business, whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Chapter, include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear;

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

*Contaminated Waste*—means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these

materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens."

*Consumer*—means any individual who is provided access to a commercial body art facility which is required to be registered pursuant to the provisions of this chapter.

*Disinfection*—means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

*Department*—means the Department of Health and Hospitals.

*Ear Piercing*—means the puncturing of the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system following manufacturers instructions.

*Equipment*—means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a commercial body art facility.

*Hand Sink*—means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

*Invasive*—means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

*Jewelry*—means any personal ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium or platinum, a dense, low-porosity plastic and which is free of nicks, scratches or irregular surfaces and which has been properly sterilized prior to use.

*Operator*—means any individual designated by the registrant to apply or to assist in the performance of body art procedures upon the consumer for remuneration. The term includes technicians who work under the operator and perform body art activities.

*Owner*—means any person who operates a commercial body art facility.

*Person*—means any natural person, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

*Protective Gloves*—means gloves made of vinyl or latex.

*Registrant*—means any person who is registered with the department as required by section 28:018 of this Chapter.

*Sanitize*—means to adequately treat equipment by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms without adversely affecting the equipment or its safety for the consumer.

*Sharps*—means any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized, single use needles, scalpel blades and razor blades.

*Sharps Container*—means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the international "biohazard" symbol.

*Single Use*—means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

*Sterilization*—means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

*Tattooing*—means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

*Temporary Commercial Body Art Facility*—means any place or premise operating at a fixed location where an operator performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

*Temporary Demonstration Registration*—means the registration issued by the Department to a *temporary commercial body art facility*, as defined herein, as required by Section 28:018 of this Chapter and R.S. 40:2742 for a period of time not to exceed fourteen consecutive calendar days.

*Temporary Operator Registration*—means the registration issued by the Department to an *operator*, as defined herein, to perform body art procedures at a temporary commercial body art facility approved and registered by the Department.

*Universal Precautions*—means a set of guidelines and controls, published by the Center for Disease Control (CDC) as "guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers" in *Morbidity and Mortality Weekly Report (MMWR)*, June 23, 1989, Vol. 38, No. S-6, and as "recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures," in *MMWR*, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

#### **28:002. Facility Standards**

All commercial body art facilities shall meet the following criteria.

**28:002-1.** All areas shall be kept clean and in good repair.

**28:002-2.** All procedure surfaces, including counters, tables, equipment, chairs, or recliners, that are in treatment and sterilization areas shall be made of smooth, nonabsorbent, and nonporous materials.

**28:002-3.** All wall, floor, and ceiling surfaces within each procedure area shall be smooth, free of open holes or cracks,

light colored, washable and in good repair. Walls, floors and ceilings shall be maintained in a clean condition.

**28:002-4.** Surfaces or blood spills shall be cleaned using an EPA registered, hospital-grade disinfectant.

**28:002-5.** Each facility shall provide a handwashing sink to be used solely for handwashing in body art procedure area for the exclusive use of the operator. Also, a separate instrument sink shall be provided for the sole purpose of cleaning instruments and equipment prior to sterilization in addition to the sink that is located in the restrooms. These sinks shall be provided with hot (120 degrees Fahrenheit minimum) and cold running water under pressure dispensed from a mixing valve. There shall also be available at all sinks and lavatories, powdered or liquid soap in a soap dispenser, disposable single use towels or automatic hand drying device, and a refuse container.

**28:002-6.** Toilet facilities shall be kept clean and in good repair and in working order at all times. If only one restroom is provided, it must contain a water closet and a handwashing sink equipped with a powdered or liquid soap dispenser and disposable single use towels or automatic hand drying device, as must all restrooms.

**28:002-7.** The facility shall be provided with adequate and sufficient artificial or natural lighting equivalent to at least twenty (20) foot candles three (3) feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.

**28:002-8.** The facility shall be well ventilated with natural or mechanical methods that remove or exhaust fumes, vapors, or dust in order to prevent hazardous conditions from occurring or to allow the free flow of air in a room in proportion to the size of the room and the capacity of the room.

**28:002-9.** If a room used for any business purposes other than body art procedures is the same room or is adjacent to a room used for body art procedures, then the department may require that one or more of the following requirements be satisfied if there are conditions that the department considers a possible threat to the health of the employees, the customers, or the public:

a. a solid partition shall separate the premises used for other business purposes from the commercial body art area. The partition may contain a door, provided it remains closed except for entering and leaving;

b. a separate outside entrance shall be provided for the facility.

**28:002-10.** Pets or other animals shall not be permitted in the commercial body art facility. This prohibition shall not apply to trained guide animals for the disabled, sightless, or hearing impaired; or fish in aquariums.

#### **28:003. Required Equipment; Articles and Materials**

Commercial body art facility registrants and operators shall provide and maintain the following tattooing and/or piercing equipment and supplies at the place of business:

**28:003-1.** Tattoo machine or hand pieces, of non porous material which can be sanitized;

**28:003-2.** Stainless steel or carbon needles and needle bars;

**28:003-3.** Stainless steel, brass or lexan tubes that can be sanitized;



**28:003-4.** Stencils, plastic acetate or single use disposable carbon paper;

**28:003-5.** Sterilization bags with color strip indicator;

**28:003-6.** Disposable protective gloves;

**28:003-7.** Single use or disposable razors, tongue depressors, lubricants or medicines.

**28:003-8.** Single use towels, tissues or paper products;

**28:003-9.** Sharps container and BIOHAZARD waste bags;

**28:003-10.** Commercially purchased inks, dyes and pigments;

**28:003-11.** A trash receptacle(s).

**28:003-12.** Commercially available spore tests performed monthly.

**28:003-13.** Single-use hollow piercing stainless steel needles;

**28:003-14.** Approved equipment for cleaning and sterilizing instruments;

**28:003-15.** All tables or chairs made of nonporous material that can be cleaned and sanitized;

**28:003-16.** All piercing instruments shall be made of stainless steel.

**28:003-17.** Bleach or hard-surface disinfectants, or both;

**28:003-18.** Antibacterial hand soap; and

**28:003-19.** Minimum of 10 pre-sterilized needle/tube packs or 10 single use needle/tube packs per artist in respect to tattooist.

#### **28:004. Practice Standards; Restrictions**

**28:004-1.** Prior to any body art procedure, a consent form shall be completed and signed by each client. Aftercare instructions shall be given to the client both verbally and in writing after every service. The written care instructions shall advise the client to consult the body art operator at the first sign of inflammation/swelling or infection and when to seek medical attention.

**28:004-2.** Registrants may obtain advice from physicians regarding medical information needed to safeguard consumers and body art operators.

**28:004-3.** Registrants shall keep an individual written record of each client. That record shall include the name and address of the client; the date of each service; description of service; the color, manufacturer and lot number of each of each pigment used for each tattoo or permanent cosmetic procedure performed; special instructions; medical history or client conditions including:

- a. diabetes;
- b. allergies;
- c. cold sores and fever blisters;
- d. epilepsy;
- e. heart conditions;
- f. hemophilia;
- g. hepatitis;
- h. use of blood thinners;
- i. moles or freckles at the site of service;
- j. psoriasis or eczema;
- k. pregnancy or breast-feeding/nursing;
- l. scarring (keloid);
- m. other medical or skin conditions.

**28:004-4.** For permanent cosmetic procedures, operators shall take photographs for corrective procedures before and after the procedure and retain such photographs.

**28:004-5.** Records shall be kept for a minimum of three years.

**28:004-6.** Inks, dyes, or pigments shall be purchased from a commercial supplier or manufacturer. Products banned or restricted by the Food and Drug Administration shall not be used.

**28:004-7.** Registrants or operators shall not perform tattooing and body piercing for any of these individuals:

a. on a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;

b. on persons who show signs of intravenous drug use;

c. on persons with sunburn or other skin diseases or disorders such as open lesions, rashes, wounds, puncture marks in areas of treatment;

f. on persons with psoriasis or eczema present in the treatment area;

e. on persons under 18 years of age without the presence, consent and proper identification of a parent, legal custodian parent or legal guardian as prescribed in R.S. 14:93.2 (A) and (B). Nothing in this section is intended to require an operator to perform any body art procedure on a person under 18 years of age with parental or guardian consent.

**28:004-8.** Use of a piercing gun to pierce shall be prohibited on all parts of the body, with the exception of the ear lobe.

**28:004-9.** Use of personal client jewelry or any apparatus or device presented by the client for use during the initial body piercing shall be sterilized prior to use. Each facility shall provide pre-sterilized jewelry, apparatus, or devices, which shall be of metallic content recognized as compatible with body piercing.

**28:004-10.** No person afflicted with an infectious or communicable disease that may be transmitted during the performance of body art procedures shall be permitted to work or train in a commercial body art facility.

**28:004-11.** No commercial body art facility shall require or permit an operator to knowingly work upon a person suffering from any infectious or communicable disease that may be transmitted during the performance of permanent color, tattoo application, or body piercing.

**28:004-12.** Nothing shall prohibit a commercial body art facility operator from refusing to provide services to anyone under the age of 18.

#### **28:005. Operator Training**

**28:005-1.** Each commercial body art facility registrant shall establish and maintain procedures to ensure that all operators performing tattooing, permanent cosmetic or body piercing services on the business premises have demonstrated knowledge of the following subjects: 1. Anatomy, 2. Skin diseases, disorders, and conditions (including diabetes); infectious disease control including waste disposal, hand washing techniques, sterilization equipment operation and methods, and sanitization/disinfection/sterilization methods and techniques; or facility safety and sanitation. Knowledge of the above subjects shall be demonstrated through submission of documentation of attendance and successful completion of training courses within the past year. Examples of courses approved by the Department includes,

but are not limited to, such courses as Preventing Disease Transmission (American Red Cross) and Bloodborne Pathogen Training (US OSHA). Training/courses provided by professional body art organizations/associations or by equipment manufacturers may also be submitted to the department for approval. The attendance of a training course in Cardio Pulmonary Resuscitation (CPR) is also recommended for all facility staff.

**28:005-2.** Trainees may train under a registered owner or operator on the proper application of tattoos and/or body piercing procedures for a minimum of one year before they can apply for and receive their operator registration from the Department. However, this apprentice type training will not substitute for receiving of training from persons or facilities approved by the Department to provide the required training as prescribed in Section 28:005-1 of this Chapter. Commercial body art facility registrants and owners must only hire operators who have registered with the department and have received training as required in Subsections 28:005-1 and 28:005-2.

#### **28:006. Hand Washing and Protective Gloves**

**28:006-1.** Prior to and immediately following administering services to a client, all registrants and operators shall thoroughly wash their hands and nails in hot, running water with soap and rinse them in clear, warm water.

**28:006-2.** All registrants and operators shall wear protective gloves during services. Protective gloves shall be properly disposed of immediately following service.

**28:006-3.** Protective gloves will be changed during a procedure if the need of additional supplies are needed.

#### **28:007. Preparation and Aftercare of Treatment Area on Clients**

**28:007-1.** Body art operators shall cleanse the client's skin, excluding the areas surrounding the eyes, by washing with an EPA-approved germicidal or antiseptic solution applied with a clean, single-use paper product, before placing the design on the client's skin or beginning tattooing or permanent cosmetic work.

**28:007-2.** If the area is to be shaved, the operator shall use a single-use disposable safety razor and then rewash the client's skin.

**28:007-3.** Substances applied to the client's skin to transfer the design from stencil or paper shall be single use.

**28:007-4.** Aftercare shall be administered to each client following service, as stated in sections 28:004-1 and 28:016-12 of this chapter.

#### **28:008. Cleaning Methods Prior to Sterilization**

**28:008-1.** Each operator shall clean all non-electrical instruments prior to sterilizing by brushing or swabbing to remove foreign material or debris, rinsing, and then performing either of the following steps:

a. immersing them in detergent and water in an ultrasonic unit that operates at 40 to 60 hertz, followed by a thorough rinsing and wiping; or

b. submerging and soaking them in a protein-dissolving detergent or enzyme cleaner, followed by a thorough rinsing and wiping.

**28:008-2.** For all electrical instruments, each operator shall perform the following:

a. first remove all foreign matter; and

b. disinfect with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity used according to manufacturer's instructions.

#### **28:009. Instrument Sterilization Standards**

**28:009-1.** Commercial body art facility operators shall place cleaned instruments used in the practice of tattooing, permanent cosmetics or piercing in sterile bags, with color strip indicators, and shall sterilize the instruments by exposure to one cycle of an approved sterilizer, in accordance with the approved sterilization modes in section 28:010 of this chapter.

**28:009-2.** The provisions of this chapter shall not apply to electrical instruments.

#### **28:010. Approved Sterilization Modes**

**28:010-1.** Instruments used in the practice of commercial body art services shall be sterilized, using one of the following methods:

a. in a steam or chemical autoclave sterilizer, registered and listed with the Federal Food and Drug Administration (FDA), and used, cleaned, and maintained according to manufacturer's directions; or

b. with single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers.

**28:010-2.** Facility registrants and operators shall sterilize all piercing instruments that have or may come in direct contact with a client's skin or be exposed to blood or body fluids. Piercing needles shall not be reused. All piercing needles shall be single use.

**28:010-3.** All sterilizing devices shall be tested on a monthly basis for functionality and thorough sterilization by use of the following means:

a. chemical indicators that change color, to assure sufficient temperature and proper functioning of equipment during the sterilization cycle; and

b. a biological monitoring system using commercially prepared spores, to assure that all microorganisms have been destroyed and sterilization has been achieved. This testing shall be performed on a monthly basis for tattoo and body piercing facilities.

**28:010-4.** Sterilization device test results shall be made available at the facility at all times for inspection by the state health officer for a minimum of three years.

#### **28:011. Waste Receptacles**

**28:011-1.** Following body art procedures for each client, the registrant or operator shall deposit all waste material related to treatment in a container of the type specified in Section 28:011-3 of this Chapter.

**28:011-2.** Waste disposed in a reception area and restrooms shall be limited only to materials that are not used in providing body art services to clients or are practice related.

**28:011-3.** Waste disposal containers shall be constructed of non-absorbent and readily cleanable materials, shall have smooth surfaces and shall be kept clean and in good repair.

**28:012. Linens**

**28:012-1.** Each registrant or operator shall use clean linens for each client.

**28:012-2.** A common towel shall be prohibited.

**28:012-3.** Air blowers may be substituted for hand towels.

**28:012-4.** Each registrant or operator shall store clean linens, tissues, or single-use paper products in a clean, enclosed storage area until needed for immediate use.

**28:012-5.** Each registrant or operator shall dispose of or store used linens in a closed or covered container until laundered.

**28:012-6.** Each registrant or operator shall launder used linens either by a regular, commercial laundering or by a noncommercial laundering process that includes immersion in water at 160 degrees Fahrenheit for-not less than 15 minutes during the washing and rinsing operations.

**28:013. Clean Instruments and Products Storage**

**28:013-1.** Before use, disposable products that come in contact with the areas to be treated shall be stored in clean containers that can be closed between treatments.

**28:013-2.** Clean, sterilized reusable instruments that come in contact with the areas to be treated shall be packed in self-sealing sterilization packages and stored in clean, dry covered containers.

**28:013-3.** Clean, sterilized reusable transfer instruments, including forceps, trays, and tweezers, shall be packed in self-sealing sterilization packages and stored in clean, dry covered containers.

**28:014. Chemical Storage**

**28:014-1.** Each registrant or operator shall store chemicals in labeled, closed containers in an enclosed storage area. All bottles containing poisonous or caustic substances shall be additionally and distinctly marked as such and shall be stored in an area not open to the public.

**28:015. Handling Disposable Materials**

**28:015-1.** All potentially infectious waste materials shall be handled, stored and disposed of in a manner specified in Chapter 27, Section 27:022 of the State Sanitary Code.

**28:015-2.** Each registrant or operator shall dispose of disposable materials coming into contact with blood, body fluids, or both, in a sealable plastic bag that is separate from sealable trash or garbage liners or in a manner that protects not only the registrant or operators and the client, but also others who may come into contact with the material, including sanitation workers.

**28:015-3.** Disposable, sharp objects that come in contact with blood or body fluids shall be disposed of in a sealable, rigid, puncture-proof container that is strong enough to protect the registrant or operators, clients, and others from accidental cuts or puncture wounds that could happen during the disposal process.

**28:015-4.** Registrants or operators shall have both sealable plastic bags or sealable rigid containers available at the facility.

**28:015-5.** Each registrant or operator shall follow universal precautions in all cases.

**28:016. Tattoo and Permanent Cosmetic Procedures; Preparation and Aftercare**

**28:016-1.** During preparation, performance of service, and aftercare phases all substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Use of a spray bottle to apply liquid to skin is acceptable. Single use tubes or containers and applicators shall be discarded following tattoo service.

**28:016-2.** The client=s skin shall be cleansed, excluding the areas surrounding the eyes, by washing with a Food and Drug Administration (FDA) germicidal or antiseptic solution applied with a clean single-use paper product before placing the design on the client=s skin or beginning tattooing work.

**28:016-3.** If the area is to be shaved, the operator shall use a single use disposable safety razor and then rewash client=s skin.

**28:016-4.** Substances applied to client=s skin to transfer design from stencil or paper shall be single use. Paper stencils and skin scribes shall be single-use and disposed of immediately following service.

**28:016-5.** Body pencils used during a tattoo and permanent cosmetic service shall have the tip removed, the body and tip of the pen disinfected, and the tip sharpened to remove exposed edge after use on a client and prior to use on another client.

**28:016-6.** The plastic or acetate stencil used to transfer the design to the client=s skin shall be thoroughly cleansed and rinsed in an Environmental Protection Agency (EPA) approved high-level disinfectant according to the manufacturers instructions and then dried with a clean single-use paper product.

**28:016-7.** Individual portions of inks, dyes, or pigments dispensed from containers or bottles into single-use containers shall be used for each client. Any remaining unused ink, dye or pigments shall be discarded immediately following service and shall not be re-used on another client.

**28:016-8.** Excess ink, dye, or pigment applied to the client=s skin shall be removed with clean single-use paper product.

**28:016-9.** Use of styptic pencils or alum solids to check any blood flow is prohibited.

**28:016-10.** Upon completion of tattooing, the operator shall cleanse the skin, excluding the area surrounding the eyes, with a clean, single-use paper product saturated with an EPA-approved germicidal or antiseptic solution.

**28:016-11.** A sanitary covering shall be placed over designs and adhered to the skin with suitable skin tape.

**28:016-12.** Each operator shall provide aftercare, which shall consist of both verbal and written instructions concerning proper care of the tattooed skin. Instructions shall specify the following information:

- a. care following the procedure;
- b. advise clients to contact their physician or the operator who applied the tattoo or permanent cosmetics at the first sign of swelling or apparent infection; and
- c. restrictions.

**28:017.** Body piercing procedures: Body piercing operators shall be responsible for adhering to the following standards while serving clients in the commercial body art facility.

**28:017-1.** Each operator shall observe and follow thorough hand washing procedures with soap and water or an equivalent hand washing product before and after serving each client and as needed to prevent cross contamination or transmission of body fluids, infections or exposure to service-related wastes or chemicals.

**28:017-2.** Each operator shall cleanse the client's skin, excluding the areas surrounding the eyes, by washing it with an FDA registered antiseptic solution applied with a clean, single-use paper product before and after piercing the client's skin.

**28:017-3.** All substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Single use swabs, applicators, lubricants, cups, skin scribes or marking instruments shall be discarded following the piercing service.

**28:017-4.** Any type of marking pen used by the operator shall be applied on cleansed skin only or shall be a surgical marking pen sanitized by design, including alcohol-based ink pens. The operator shall remove the tip of each body pencil used during a piercing, shall disinfect the body and the tip of the pencil, and shall sharpen the tip to remove the exposed edge prior to disinfection.

**28:017-5.** Use of styptic pencils or alum solids to control blood flow shall be prohibited.

**28:017-6.** Aftercare shall be administered to each client following service. Aftercare shall consist of both verbal and written instructions concerning proper care of the pierced area. Instructions shall specify the following information:

- a. care following service;
- b. advise clients to contact their physician or the operator who performed the piercing procedure at the first sign of swelling or apparent infection; and
- c. restrictions.

**28:017-7.** Operators who have open sores or bleeding lesions on their hands shall not have client contact until the lesions have healed to the scab phase. Each operator shall cover them with protective gloves or impervious bandages prior to contact with clients.

**28:017-8.** Operators shall wear eye goggles, shields, or masks if spattering is likely to occur while providing services.

#### **28:018. Registration**

**28:018-1.** Each person owning or operating a commercial body art facility or facilities within the State of Louisiana on January 1, 2000 shall register each facility with the department no later than March 1, 2000.

**28:018-2.** Each person acquiring or establishing a commercial body art facility within the State of Louisiana after January 1, 2000, shall register the facility with the department prior to beginning operation of such a facility.

**28:018-3.** No person shall operate a commercial body art facility without first having registered that facility as provided by Subsections 28:018-1 and 28:018-2 of this section. The application for registration of commercial body art facilities shall be submitted on forms provided by the department and shall contain all the information required by such forms and any accompanying instructions.

**28:018-4.** Each person managing a commercial body art facility and each person acting as an operator as defined in Section 28:001 of this Chapter on January 1, 2000, shall register with the department no later than March 1, 2000.

**28:018-5.** Each person who begins to act as a manager or operator in a commercial body art facility after January 1, 2000, shall register the facility as required in this Chapter prior to beginning operation of such a facility.

**28:018-6.** No person shall act as a manager or operator in a commercial body art facility without having first registered as provided in Subsections 28:018-4 and 28:018-5 of this section. The applications for registration shall be submitted on forms provided by the department and shall contain all of the information required by such forms and any accompanying instructions.

**28:018-7.** Any person or facility approved by the department for training commercial body art operators pursuant to R.S. 37:2743(A)(4) shall register with the department upon approval. The applications for registration shall be submitted on forms provided by the department and shall contain all of the information required by such forms and any accompanying instructions.

**28:018-8.** As part of the application for registration process, owners of commercial body art facilities shall submit a scale drawing and floor plan of the proposed establishment to the department for a review. This shall apply to new construction and to renovation of any existing property.

#### **28:019. Registration Application Form**

**28:019-1.** The department shall require at least the following information for registration:

a. name, physical address, mailing address and telephone number and normal business hours of each commercial body art facility;

b. name, residence address, mailing address and telephone number of the owner of each commercial body art facility;

c. for each manager or operator: name, residence address, mailing address, telephone number, place(s) of employment as a manager or operator, training and/or experience, proof of attendance of an approved operator training course as specified in Section 28:005 of this chapter;

d. name, mailing address, telephone number and owner, manager or contact person for each operator training facility.

#### **28:020. Registration Fees**

**28:020-1.** The following fees shall accompany each application for initial registration:

Registrant	Fee
Owner of facility	\$500.00
Manager of facility	\$100.00
Operator	\$50.00
Training Facility or Person	\$1,500.00

Make check or money orders payable to the Department of Health and Hospitals.

**28:021. Issuance of Certificate of Registration**

**28:021-1.** A certificate of registration shall be issued upon receipt of an application and the required registration fee provided that no certificate of registration will be issued until an inspection has been made of the commercial body art facility and it has been found to be operating in compliance with the provisions of R.S. 40:2741 through 40:2744 and the provisions of this Chapter of the Sanitary Code.

**28:021-2.** Certificates of registration shall be displayed in an open public area of the commercial body art facility.

**28:021-3.** Certificates of registration shall expire annually on December 31.

**28:021-4.** Certificates of registration shall be issued only to the applicants and shall not be transferable.

**28:022. Renewal of Certificate of Registration**

**28:022-1.** Each registrant shall file applications for renewal of certificate of registration annually on forms provided by the department. The renewal application shall be forwarded to the mailing address of the registrant as listed on the last application for registration submitted to the department.

**28:022-2.** The following fees shall accompany each application for registration renewal:

Registrant	Renewal Fee
Owner of facility	\$250.00
Manager of facility	\$75.00
Operator	\$30.00
Training Facility or Person	\$500.00

Make check or money orders payable to the Department of Health and Hospitals.

**28:022-3.** Provided that a registrant files a required application with the department in proper form not less than thirty (30) days prior to the expiration date stated on the certificate of registration, the certificate shall not expire pending final action on the application by the department.

**28:023. Temporary Commercial Body Art Facility/Operator Registration**

**28:023-1.** Temporary commercial body art facilities and, when required, operator registrations may be issued for body art services provided outside of the physical site of a registered permanent facility for the purposes of product demonstration, industry trade shows or for educational reasons.

**28:023-2.** Temporary commercial body art facility and/or operator registrations will not be issued unless:

a. the applicant furnishes proof of compliance with Section 28:018 of this Chapter relating to operator's registration;

b. the applicant is currently affiliated with a permanent fixed location or permanent facility which, is registered by the department;

c. applicants who reside outside of Louisiana must demonstrate to the department that they hold a valid registration or license to operate a commercial body art facility at a permanent fixed location issued by the state or local regulatory authority within their respective state;

d. the temporary site complies with Section 28:025 of this Chapter.

**28:023-3.** In lieu of attendance at a bloodborne pathogens training program approved by the Department within the past year as specified in Section 28:005 of this Chapter, the applicant may furnish proof of attendance at equivalent training which is acceptable to the Department.

**28:023-4.** Temporary registrations expire after fourteen (14) consecutive calendar days or at the conclusion of the special event, whichever is less.

**28:023-5.** Temporary commercial body art facility and/or operator registrations will not be issued unless the applicant has paid a reasonable fee as set by the Department.

**28:023-6.** The temporary commercial body art facility and/or operator registration(s) shall not be transferable from one place or person to another.

**28:023-7.** The temporary commercial body art facility and/or operator registrations shall be posted in a prominent and conspicuous area where they may be readily seen by clients.

**28:024. Temporary Commercial Body Art Facility/Operator Registration Requirements**

**28:024-1.** A temporary registration may be issued by the Department for educational, trade show or product demonstration purposes only. The registration may not exceed fourteen (14) calendar days.

**28:024-2.** A person who wishes to obtain a temporary demonstration registration must submit the request in writing for review by the Department, at least thirty (30) days prior to the event. The request should specify:

a. the purpose for which the registration is requested;

b. the period of time during which the registration is needed (not to exceed fourteen (14) consecutive calendar days per event), without re-application;

c. the fulfillment of operator requirements as specified in Section 28:005 of this Chapter;

d. the location where the temporary demonstration registration will be used.

**28:024-3.** The applicant's demonstration project must be contained in a completely enclosed, non-mobile facility (e.g. inside a permanent building).

**28:024-4.** Compliance with all of the requirements of this Code, including but not limited to:

a. conveniently located handwashing facilities with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Antiseptic single use hand wipes, approved by the Department, to augment the handwashing requirements of this section must be made readily available to each operator;

b. a minimum of eighty (80) square feet of floor space;

c. at least one hundred (100) foot candles of light at the level where the body art procedure is being performed;

d. facilities to properly sterilize instruments—evidence of spore test performed on sterilization equipment thirty (30) days or less prior to the date of the event, must be provided; or only single use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed;

e. ability to properly clean and sanitize the area used for body art procedures.

**28:024-5.** The facility where the temporary demonstration registration is needed must be inspected by the Department and a certificate of registration issued prior to any body art procedures being performed.

**28:024-6.** Temporary demonstration registrations issued under the provisions of Section 28:024-5 of this Chapter may be suspended by the Department for failure of the holder to comply with the requirements of this Chapter.

**28:024-7.** All temporary demonstration registrations and the disclosure notice must be readily seen by clients.

#### **28:025. Report of Changes**

**28:025-1.** The registrant shall notify the department in writing before making any change which would render the information contained in the application for registration inaccurate. Notification of changes shall include information required Section 28:018 of this Chapter.

#### **28:026. Transfer of Registrations**

**28:026-1.** Certificates of registration issued to commercial body art facilities, facility managers, body art operators and operator trainers shall not be transferrable.

#### **28:027. Enforcement**

**28:027-1.** The Office of Public Health shall enforce the provisions of this Chapter in accordance with Chapter I of this Code.

#### **28:028. Facility Inspections**

**28:028-1.** The department shall conduct at least one inspection of a commercial body art facility prior to approving the business to offer body art application services under provisions of this Chapter and R.S. 40:2741 through 2744. The department may conduct additional inspections as necessary for the approval process, and may inspect a registered commercial body art facility at any time the department considers necessary.

**28:028-2.** In an inspection, the department shall be given access to the business premises and to all records relevant to the inspection.

#### **28:029. Suspension or Revocation of Approval**

**28:029-1.** The department may suspend or revoke the approval and registration of a commercial body art facility at any time the department determines that the business is being operated in violation of the provisions of R.S. 40:2714 through 2744, or the provisions of R.S. 14:93.2, which prohibits the tattooing and body piercing of minors without parental or custodial consent.

**28:029-2.** In addition to suspension or revocation of approval and registration by the department, if a commercial body art facility violates the provisions of R.S. 14:93.2, it shall be subject to the penalties provided therein.

**28:029-3.** The department may suspend or revoke the registration of a manager or operator at a commercial body art facility or the registration of a registered training facility at any time the department determines that the registrant is operating in violation of the provisions of R.S. 40:2714 through 2744 or the provisions of R.S. 14:93.

**28:029-4.** In addition to suspension or revocation of registration by the department, a registrant who violates the provisions of R.S. 14:93.2 shall be subject to the penalties provided therein.

**28:029-5.** The department may suspend or revoke the approval and registration of a commercial body art facility for any of the following reasons:

a. failure to pay a registration fee or an annual registration renewal fee;

b. the applicant obtained or attempted to obtain an approval or registration by fraud or deception;

c. a violation of any of the provisions of this Chapter of the State Sanitary Code.

#### **28:030. Injunctive Relief**

**28:030-1.** If the department or state health officer finds that a person has violated, is violating, or threatening to violate the provisions of R.S. 40:2714 through 2744 or the provisions of this Chapter of the Sanitary Code and that violation or threat of violation creates an immediate threat to the health and safety of the public, the department or state health officer may petition the district court for a temporary restraining order to restrain the violation or threat of violation. If a person has violated, is violating, or threatening to violate provisions of R.S. 40:2714 through 2744 or the provisions of this Chapter of the Sanitary Code, the department or state health officer may, after sending notice of said alleged violation to the alleged violator via certified mail and the lapse of ten days following receipt of the notice by the alleged violator may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

**28:030-2.** On application for injunctive relief and a finding that a person is violating or threatening to violate provisions of R.S. 40:2714 through 2744 or the provisions of this Chapter of the Sanitary Code, the district court may grant any injunctive relief warranted by the facts. Venue for a suit brought under provisions of this section shall be in the parish in which the violation is alleged to have occurred.

## 28:031. Severability

See State Sanitary Code, Chapter 1, Section 1:006.

\* \* \*

AUTHORITY NOTE: Promulgated under authority of R.S. 40:2741 through R.S. 40:2744 – Commercial Body Art Regulation Act; R.S. 40:4 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:

David W. Hood  
Secretary

9911#029

### DECLARATION OF EMERGENCY

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

#### Prospective Reimbursement Methodology for Nursing Facilities

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage under the Medicaid Program for private nursing facility services. Payments for nursing facility services are made in accordance with the prospective reimbursement methodology adopted effective August 1, 1984 (*Louisiana Register*, Volume 10, No. 6). A rule was subsequently adopted to establish patient specific classifications of care in accordance with requirements of the Omnibus Budget Reconciliation Act (OBRA) of 1987 (*Louisiana Register*, Volume 16, No. 12). Subsequent rules were adopted to establish specialized nursing facility levels of care for specific types of patients in skilled nursing units such as Skilled Nursing/Infectious Disease (SN/ID) and Skilled Nursing/Technology Dependent Care (SN/TDC). The payment for SN/ID and SN/TDC was established as a cost-based reimbursement methodology (*Louisiana Register*, Volume 14, Number 12 and Volume 15, Number 11). The Bureau has decided that it is necessary to amend the December 20, 1988 and November 20, 1989 rules to convert the reimbursement methodology from a cost-based to a prospective methodology for SN/ID and SN/TDC services.

This action is necessary to ensure health and welfare of Medicaid recipients by assuring continued access for specialized levels of care for skilled nursing services. It is estimated that the implementation of this rule will increase expenditures by approximately \$492,081 in state fiscal year 1999.

#### Emergency Rule

Effective October 21, 1999 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing will reimburse nursing facilities for Skilled Nursing-Infectious Disease (SN/ID) and Skilled Nursing-Technology Dependent Care (SN/TDC) services under a prospective reimbursement methodology. This methodology utilizes the skilled nursing (SN) rate based on the 1993 cost report inflated to the applicable rate year, plus an average allowable cost per day. The allowable cost per day is determined through the Department's audit process in accordance with allowable cost guidelines for SN/ID and SN/TDC and based on audited cost reports for calendar year 1997 for the provision of these services plus a five percent (5 percent) incentive factor inflated to the midpoint of the year preceding the rate year.

A. Reimbursement Methodology. Reimbursement for SN/ID and SN/TDC services shall be limited to the same rates paid for skilled nursing level of care plus a prospective statewide enhancement to ensure reasonable access to appropriate services. The enhancement shall be based on average allowable incremental costs of all acceptable cost reports for the year on which the rates are based and in accordance with guidelines for allowable incremental costs and inflated forward to reflect current costs. In addition, the following requirements must be met:

1. the facility must have a valid Title XIX provider agreement for provision of nursing facility services;
2. the facility must be licensed to provide nursing services; and
3. the facility must have entered into a separate contractual agreement with the Bureau to provide SN/ID and/or SN/TDC services in accordance with standards for the care of individuals with infectious diseases or technological dependency and meet all applicable staffing and services requirements.

#### B. Allowable incremental costs for SN/ID:

1. Direct nursing costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services. Nursing services personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. A minimum of 4.0 nursing hours per patient day for infectious disease residents is required. However, HCFA does not grant exceptions that include direct patient care in excess of 9.6 hours per patient day.

b. The marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/ID cost.

2. Other direct care services are based on demonstrated appropriate services including the following:

a. respiratory therapy, social services or any other specialized services that are directly attributable to SN/ID status and not covered in the SN rate;

b. specialized nursing supplies related to SN/ID status must be supported by detailed justification that substantiate the cost of any specialized nursing supplies;

c. specialized dietary needs related to SN/ID status must be supported by detailed justification that to substantiate the cost of any specialized dietary needs.

3. Plant and maintenance costs are based on demonstrated dependency of SN/ID special equipment. Costs associated with demonstrated enhanced infection control measures are included. Capitalized purchases are not included.

4. Allocated costs are based on the ratio of direct nursing hours required for SN/ID service not covered in the regular skilled rate (1.4 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative, general, nursing administration, housekeeping, medical supplies and dietary.

5. Incentive factor is equal to 5 percent of the average allowable incremental costs added to the enhanced rate in order to assure reasonable access to SN/ID services.

C. Allowable incremental costs for SN/TDC:

1. Direct nursing costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services. Nursing service personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. A minimum of 4.5 nursing hours per patient day for technology dependent care residents is required. However, HCFA does not grant exceptions that include direct patient care in excess of 9.6 hours per patient day;

b. The marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/TDC cost.

2. Other direct care services are based on demonstrated appropriate services including the following:

a. respiratory therapy, social services or any other specialized services that are directly attributable to SN/TDC status and not covered in the SN rate;

b. specialized nursing supplies related to SN/TDC status must be supported by detailed justification that substantiate the cost of any specialized nursing supplies;

c. specialized dietary needs related to SN/TDC status must be supported by detailed justification that substantiate the cost of any specialized dietary needs.

3. Plant and maintenance costs are based on demonstrated dependency of SN/TDC special equipment. Capitalized purchases are not included.

4. Allocated costs are based on the ratio of direct nursing hours required for SN/TDC service not covered in the regular skilled rate (1.9 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative, general, nursing administration, housekeeping, medical supplies and dietary.

5. Incentive factor is equal to 5 percent of the average allowable incremental costs added to the enhanced rate, in order to assure reasonable access to SN/TDC services.

Facilities shall submit cost reports at the end of each twelve (12) month period. Providers shall be required to segregate SN/ID or SN/TDC costs from other long term care costs and to submit a separate cost report which shall be

subject to audit. No duplication of costs shall be allowed and allowable costs shall be in accordance with Medicare cost principles.

Rates for SN/ID and SN/TDC services will be rebased as determined necessary by the Department to ensure that appropriate services are reimbursed on a reasonable cost basis, recognizing the need for accountability for public funds, as well as the provider's right to a fair payment for services rendered. Base rate adjustments will result in a new base rate component which will be used to calculate the rate for subsequent years. A base rate adjustment may be made when the event, or events, causing the adjustment is not one that would be reflected in inflationary indices.

Annual inflationary adjustments shall be contingent upon appropriation by the Legislature.

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

9911#026

## 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 Lafayette (4) and Monroe (8). 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 Lafayette (4) 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 Lafayette and Monroe regions.

#### **I. Eligibility Criteria**

A Medicaid recipient must not be beyond the 28<sup>th</sup> 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 (6) 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

9911#064

### **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 Diagnostic 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 action is necessary to protect the health and welfare of those children in the new targeted group who are in need of case management services to assist their families in accessing necessary medical and social services for them and who do not qualify for case management services under the current criteria. It is anticipated that the implementation of this emergency rule will increase expenditures for FY 1999-2000 by approximately \$1,227,699.

#### **Emergency Rule**

Effective December 1, 1999, 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 zero (0) and twenty-one (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 (3) 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 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 who 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 in this group who

subsequently pass or passed the D&E process are eligible for these targeted case management services. For those who do not pass the D&E process, or who are not undergoing a D&E, they may still receive case management services if they meet the definition of a person with special needs.

*Special needs* is 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

- a. 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 (20) recipients.

Adult Waiver and Targeted EPSDT. The case management 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

9911#025

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### 1999 Red Snapper Commercial Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department, by the Commission in its resolution of August 5, 1999, to close the 1999 fall commercial red snapper season in Louisiana state waters when he is informed that the designated portion of the commercial red snapper quota for the Gulf of Mexico has been filled, or projected to be filled, the Secretary hereby declares:

Effective 12:00 noon November 5, 1999, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12:00 noon February 1, 2000. Nothing herein shall preclude the legal harvest of red snapper by

legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with this closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5.

The Secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in Federal waters of the Gulf of Mexico will close at 12:00 noon November 5, 1999. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.  
Secretary

9911#006

# Rules

## RULE

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

Fees and Costs (LAC 7:V.1615)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission amends regulations regarding the certification and inspection of all meat, poultry and seafood products at state institutions and local school districts. These rules comply with and are enabled by R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part V. Advertising, Marketing and Processing

#### Chapter 16. Meat, Poultry and Seafood Grading and Certification Program

##### §1615. Fees and Costs

A. ...

B. Any vendor delivering a food product inspected and certified by the Department, under these regulations, shall pay an inspection fee of \$.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of \$.025 per dozen. All fees and costs shall be immediately due and payable to the Department upon presentation to the vendor by the Department of the statement for services rendered.

C. If any product received by the public entity is in noncompliance with these regulations or purchase order requirements, but is accepted by the public entity because the product is needed for immediate consumption by either students, residents, patients or inmates then the vendor delivering such products shall pay the to the Department an inspection fee of \$.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of \$.025 per dozen. Any public entity accepting a product that is in noncompliance with these regulations or purchase order requirements will immediately notify the Department of any such acceptance and will provide the Department with all necessary information to allow the Department to bill the vendor for payment under this Subsection.

D. Any vendor, state agency, state institution, local school district or person needing certification services from the Department and failing to notify the Department at least twenty-four (24) hours in advance of need shall be subject to a penalty of \$50.00, regardless of the time required for the services or the fees assessed by the Department.

E. Fees charged and collected by the Department under any other grading or certification program operated by the Department shall not be affected by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 24:629 (April 1998), amended LR 25:2160 (November 1999).

Bob Odom  
Commissioner

9911#033

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Accountability System (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 School Accountability System was promulgated as a Rule in the June 1999 issue of the *Louisiana Register* and amendments have been made to the policy.

#### 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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 25:2160 (November 1999).

#### Bulletin 741

##### Louisiana Handbook for School Administrators

**2.006.00** Every School shall participate in a school accountability system based on student achievement as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

Refer to R.S. 17:10.1

#### Indicators for School Performance Scores

**2.006.01** A school's School Performance Score shall be determined using a weighted composite index derived from three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), and student attendance for grades K-12, and dropout rates for grades 7-12.

#### Louisiana's 10- and 20-Year Education Goals

**2.006.02** Each school shall be expected to reach 10- and 20-Year Goals that depict minimum educational performances.

Indicators and Weighting	Grades Administered	10-Year Goal	20-Year Goal
CRT Tests (60 percent K-12)	Grades 4, 8, 10, 11	Average student score at BASIC	Average student score at PROFICIENT
NRT Tests (30 percent K-12)	Grades 3, 5, 6, 7, 9	Average composite standard score corresponding to the 55th percentile rank in the tested grade level	Average composite standard score corresponding to the 75th percentile rank in the tested grade level
Attendance (10 percent K-6; 5 percent 7-12)		95 percent (grades K-8) 93 percent (grades 9-12)	98 percent (grades K-8) 96 percent (grades 9-12)
Dropout Rate (5 percent 7-12)		4 percent (grades 7-8) 8 percent (grades 9-12)	2 percent (grades 7-8) 4 percent (grades 9-12)

### 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."

Every year of student data shall be used as part of a school's SPS. The initial school's SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data and 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 baseline data shall be used for schools formed in mid-cycle years and two year's data for other schools.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8 and in Spring 2001 for Grades 9-12.

During the summer of 1999 for K-8 schools and summer of 2001 for 9-12 schools, each school shall receive two School Performance Scores as follows:

- A score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students.
- A score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.
- For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the School Performance Score that includes only regular education students shall be used.

Formula for Calculating an SPS  
The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 \* 60 percent) + (75.0 \* 30 percent) + (50.0 \* 10 percent)] = 67.1

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60 percent	39.6
NRT	75.0	30 percent	22.5
Attendance	50.0	10 percent	5.0

Dropout	N/A	0 percent	0
SPS = 76.1			

Criterion-Referenced Tests (CRT) Index Calculations  
A school's CRT Index score equals the sum of the student totals divided by the number of student eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School

- Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.
- Divide by the total number of students eligible to be tested times the number of content area tests.
- Zero shall be the lowest CRT Index score reported for accountability calculations.

Initial Transition Years  
To accommodate the phase-in of Social Studies and Science tests for K-8 schools, the following CRT scores shall be used for each year:

1999 Baseline CRT Score =	1999 Math and English Language Arts (Grades 4 and 8)
2001 Comparison CRT Score =	2000 and 2001 Math and English Language Arts (both years averaged for each subject and each grade)
2001 New Baseline CRT Score =	2000 and 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
2003 Comparison CRT Scores =	2002 and 2003 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)

This re-averaging shall result in a re-calculated baseline to include science and social studies for K-8 schools in 2001. A similar schedule shall be used for 9-12 schools to begin with a 2001 baseline year.

Norm-Referenced Tests (NRT) Index Calculations  
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

*NRT Goals and Equivalent Standard Scores*

Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year Goals, by Grade Level \*

		Grade				
Goals	Percentile Rank	3	5	6	7	9
10-Year Goal	55th	187	219	231	243	TBA
20-Year Goal	75th	199	236	251	266	TBA

\* Source of percentile rank-to-standard score conversions: *Iowa Tests of Basic Skills, Norms and Score Conversions, Form M (1996), Spring norms, interpolated for Fourth Quarter, March and Iowa Test of Educational Development, Norms and Score Conversions, with Technical Information, Form M (1996), Chicago, IL: Riverside Publishing Company.*

NRT Formulas Relating Student Standard Scores to NRT Index Where the 10-year and 20-year goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, then the index for that student is calculated as follows:	
Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$ SS = $(\text{Index 3rd grade} + 679.2)/4.167$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$ SS = $(\text{Index 5th grade} + 544.1)/2.941$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$ SS = $(\text{Index 6th grade} + 477.5)/2.500$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$ SS = $(\text{Index 7th grade} + 428.3)/2.174$
Grade 9:	Index 9th grade = TBA SS = TBA

- Formula for Calculating a School's NRT Index
1. Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
  2. Zero shall be the lowest NRT Index score reported for accountability calculations.
  3. Compute the total number of index points in all grades in the school.
  4. Divide the sum of NRT Index points by the total number of students eligible to be tested.

Attendance Index Calculations An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indices shall be calculated using the prior two years' average attendance rates as compared to the state goals.		
<i>Attendance Goals</i>		
	10-Year Goal	20-Year Goal
Grades K-8	95 percent	98 percent
Grades 9-12	93 percent	96 percent
Attendance Index Formulas Grades K-8 Indicator (ATT K-8) = $(16.667 * ATT) - 1483.4$ Grades 9-12 Indicator (ATT 9-12) = $(16.667 * ATT) - 1450.0$ Where ATT is the attendance percentage, using the definition of attendance established by the Louisiana Department of Education		

Lowest Attendance Index Score  
Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two year's average dropout rates as compared to the state goals.		
<i>Dropout Goals</i>		
	10-Year Goal	20-Year Goal
Grades 7 and 8	4 percent	2 percent
Grades 9-12	8 percent	4 percent

Dropout Index Formulas Non-Dropout Rate (NDO) = $100 - \text{Dropout Rate (DO)}$ (expressed as a percentage)	
Grades 7 and 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = $(25 * \text{NDO}) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$
Grades 9-12	Dropout Index (9-12) = Indicator (DO Gr 9-12) = $(12.5 * \text{NDO}) - 1050.0$ NDO = $(\text{Indicator DO Gr 9-12} + 1050.0) / 12.5$

Lowest Dropout Index Score  
Zero shall be the lowest Dropout Index score reported for accountability calculations.

### Data Collection

**2.006.04** A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT Index and NRT Index shall be calculated in the school's SPS. To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods AND who has formal medical documentation for that period.

### Growth Targets

**2.006.05** Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the state 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT test in each school will be a factor in determining the Growth Target for each school.

#### Growth Targets

During the first ten years, the formula is the following:  
 $[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * (100 - \text{SPS})/2N]$ , or 5 points, *whichever is greater*

where  
 PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT tests, divided by the total number of students in the school who are eligible to participate in the NRT or CRT tests. For purposes of this calculation, gifted, talented, speech or language impaired, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE =  $1 - \text{PropSE}$ . PropRE is the proportion of students not in special education.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

During the second ten years, the formula is the following:  
 $[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * (150 - \text{SPS})/2N]$ , or 5 points, *whichever is greater*

### Growth Labels

**2.006.06** A school shall receive a label based on its success in attaining its Growth Target.

#### Growth Labels

A school exceeding its Growth Target by 5 points or more shall receive a label of *Exemplary Academic Growth*.

A school exceeding its Growth Target by fewer than 5 points shall receive a label of *Recognized Academic Growth*.

A school improving, but not meeting its Growth Target, shall receive a label of *Minimal Academic Growth*.

A school with a flat or declining SPS shall receive a label of *School in Decline*.

When a school's SPS is greater than or equal to the state goal, "Minimal Academic Growth" and "School in Decline" labels shall no longer apply.

### Performance Labels

**2.006.07** A Performance Label shall be given to a school that qualifies, in addition to Growth Labels.

A school with an SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Actions.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

\*A school with an SPS of 30.1 - state average\* shall be labeled Academically Below Average.  
\*A school with an SPS of state average\* - 99.9 shall be labeled Academically Above Average.  
\*The state average is recalculated every growth cycle. The state average shall be the SPS calculated for all eligible students in the state, treating the state as a single unit.  
\*\*A school with an SPS of 100.0 - 124.9 shall be labeled a *School of Academic Achievement*.  
\*\*A school with an SPS of 125.0 - 149.9 shall be labeled a *School of Academic Distinction*.  
\*\*A school with an SPS of 150.0 or above shall be labeled a *School of Academic Excellence* and shall have no more Growth Targets.  
\*\*A school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth labels, i.e., School in Decline and Minimal Academic Growth. This school shall continue to meet or exceed Growth Targets to obtain "positive" growth labels, recognition, and possible rewards.

### Rewards/Recognition

**2.006.08** A school shall receive recognition and possible monetary awards when it meets or surpasses its Growth Targets and when it shows growth in the performance of students who are classified as high poverty.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salary or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Targets.

### Corrective Actions

**2.006.09** A school that does not meet its Growth Target shall enter into Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Action I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Action I and in light of recent proposed changes in federal programs. This information shall be required on an annual basis.

### Requirements for Schools in Corrective Actions I

#### 1) Revised or New School Improvement Plan (due December 15)

All Louisiana schools were required to have a School Improvement Plan in place by May of 1998. Those schools falling within the category of "Academically Unacceptable" and placed in Corrective Actions I shall be required to review and either revise or completely rewrite their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:

- A. A Statement of the school's beliefs, vision, and mission;
- B. A comprehensive needs assessment which shall include the following quantitative and qualitative data:
  - Student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);
  - Demographic indicators of the community and school to include socioeconomic factors.
  - School human and material resource summary, to include teacher demographic indicators and capital outlay factors;
  - Interviews with stakeholders: principals, teachers, students, parents;
  - Student and teacher focus groups;
  - Questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;
  - Classroom Observations;
- C. Measurable objectives and benchmarks;
- D. Effective research-based methods and strategies;
- E. Parental and community involvement activities;
- F. Professional development component aligned with assessed needs;
- G. External technical support and assistance;
- H. Evaluation strategies;
- I. Coordination of resources and analysis of school budget (possible redirection of funds);
- J. Action plan with time lines and specific activities.

#### 2) Assurance pages (due December 15)

Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.

#### 3) An annual Evaluation of the Level of Implementation of the School Improvement Plan (due June 15)

This evaluation shall be designed by the Louisiana Department of Education through the services of a contracted evaluator and mailed to the schools as soon as they are identified. It shall be required on an annual basis, with the first year's data pertaining to implementation activities. The evaluation for the second year shall contain some implementation data, but shall pertain particularly to student performance as determined by the School Performance Score. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the state. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy Standard Number 2.006.11).

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school (See Transfer Policy, Standard Number 2.006.11). A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to SBESE for approval.

If a Corrective Actions Level III school has achieved at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose state approval and all state funds.

Any reconstituted School's SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. SBESE shall monitor the implementation of the Reconstitution Plan.

A school initially enters Corrective Actions Level I if it has an SPS of 30 or less or if it has an SPS of less than 100 and fails to reach its Growth Target.

A school moves into a more intensive level of Corrective Actions when adequate growth is not demonstrated during each 2-year cycle.

A school with an SPS of 30 or less, i.e., Academically Unacceptable School, shall move to the next level of Corrective Actions as long as its score is 30 or less.

A school with an SPS of 30.1 to 50.0 shall move to the next level of Corrective Actions if it grows fewer than 5 points. If it grows 5 points or more each cycle, but less than its Growth Target, a school may remain in Corrective Actions Level I for two cycles and Corrective Actions Level II for one cycle.

A school with an SPS of 50.1 to 99.9 shall remain in Corrective Actions Level I as long as its growth is at least its Growth Target minus 5 points, but not less than 0.1 points. During the first 10-year cycle, there is no maximum number of cycles that such a school can stay in Level I as long as this minimum growth is shown each cycle.

A school exits Corrective Actions if its School Performance Score is above 30 and the school achieves its Growth Target.

### Corrective Actions Summary Chart

#### School Level Tasks

##### Level I

- 1) Utilize state diagnostic process to identify needs; and
- 2) Develop/implement a consolidated improvement plan, including an integrated budget; process must include: a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval

##### Level II

- 1) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 2) Distinguished Educator works with principals to develop capacity for change

##### Level III

- 1) Distinguished Educator continues to assist with improvement efforts and the design of that school's Reconstitution Plan

##### Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets. If Reconstitution Plan is not approved, no state approval/no state funding

#### District Level Tasks

##### Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Publicly identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) As allowed by law, reassign or remove school personnel as necessary; and
- 4) For Academically Unacceptable schools, ensure schools receive at least their proportional share of applicable state, local, and federal funding.

##### Level II

- 1) District Assistance Teams continue to help schools;
- 2) Hold public hearing and respond to Distinguished Educators' written recommendations;
- 3) As allowed by law, local boards reassign or remove personnel as necessary; and
- 4) For Academically Unacceptable Schools, authorize parents to send their children to other public schools

##### Level III

- 1) District Assistance Teams shall continue to help schools;
- 2) Authorize parents to send their children to other public schools;
- 3) Design Reconstitution Plan; and
- 4) At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40 percent of the Growth Target or 5 points, whichever is greater; b) District shall develop Reconstitution Plan to be approved by SBESE; or c) SBESE grants non-school approval status

##### Reconstitution or No State Approval/Funding

- 1) If Recommendation Plan is approved by SBESE, provide implementation support. If the Reconstitution Plan is not approved, no state approval/no state funding

#### State Level Tasks

##### Level I

- 1) Provide diagnostic process for schools;
- 2) Provide training for District Assistance Teams;
- 3) For some Academically Unacceptable Schools only, SBESE assigns advisory Distinguished Educators to schools; and
- 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

##### Level II

- 1) Assign advisory Distinguished Educator to schools; and
- 2) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

##### Level III

- 1) Assign advisory Distinguished Educator to schools for one additional year;
- 2) At end of Year 1, SBESE approves or disapproves Reconstitution Plans; and
- 3) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

##### Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by SBESE, a) monitor implementation of reconstitution plan; and b) provide additional state improvement funds; and
- 2) If Reconstitution Plan is not approved, no state approval/state funding

### Reconstitution Plan

**2.006.10** Districts shall develop and submit a Reconstitution Plan to SBESE for approval for any school in Correction Actions Level III during the first year in that level. This Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student performance. The plan shall specify how and what



reorganization shall occur and how/why these proposed changes shall lead to improved student performance.

If a Corrective Actions Level III school has grown at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may continue another year in Level III. If such minimum growth is not achieved during the first year, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, it shall lose state approval and all state funds.

#### **Transfer Policy**

**2.006.11** Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Correction Actions Level II or any other school begins Correction Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools or any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

#### **Progress Report**

**2.006.12** The SBESE shall report annually on the state's progress in reaching its 10- and 20-Year Goals. The Louisiana Department of Education shall publish individual school reports to provide information on every school's performance. The school reports shall include the following information: School Performance Scores, and school progress in reaching Growth Targets.

#### **Appeals Procedures**

**2.006.13** The Louisiana Department of Education shall define "appeal" what may be appealed, and the process that the appeal shall take.

#### **Student Mobility**

**2.006.14** As a general rule, the test score of every eligible student at a given school shall be included in that school's performance score regardless of how long that student has been enrolled in that school. A school that has at least 10 percent of its students transferring from outside the district and enrolled in the school after October 1 may request that the Louisiana Department of Education calculate what its SPS would have been if such out-of-district enrollees had not been included. If there is at least a 5 point difference between the two School Performance Scores, then the school may appeal any negative accountability action taken by the state, e.g., movement into Corrective Actions, application of growth labels.

#### **Pairing/Sharing of Schools with Insufficient Test Data**

**2.006.15** In order to receive an SPS, a given school must have at least one grade level of CRT testing and at least

one grade level of NRT testing. A school that does not meet this requirement must either be "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

A school with a grade-level configuration such that it participates in neither the CRT test nor in the NRT test (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This "pairing" means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration where students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school), must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either "paired or shared." The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

Once the identification of "paired or shared" schools has been made, this decision is binding for 10 years. An appeal to SBESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

#### **New Schools and/or Significantly Reconfigured Schools**

**2.006.16** For a newly formed school, the school district shall petition SBESE, following existing procedures, to have a new site code assigned to that school. Once the site code is assigned, the school shall receive its initial baseline SPS the summer following its second year of operation, since it shall need two years of testing data and one year of attendance and/or dropout data.

The district may also petition SBESE for a new SPS for a school with significant reconfiguration from the previous year, where such significant reconfiguration varies at least 50 percent from the previous year's grade structure and/or size. For example, a K-4 school changes to a K-8 school, or a given school's population decreases in half or doubles in size from one year to the next. If SBESE grants a new SPS and agrees that this is a significant reconfiguration, this school would receive a new baseline SPS during the summer following its second year of operation.

A school that has population and/or grade configuration change from the previous year of less than 50 percent, but more than 25 percent, is not eligible for a new SPS. Instead, such school may appeal any state accountability decisions made as a result of not meeting its Growth Targets, e.g., movement into Corrective Actions.

#### **Inclusion of Alternative Education Students**

**2.006.17** Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the Louisiana Accountability System for the system's alternative education schools.

*Option I* The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

*Option II* The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- The alternative school must have its own site code and operate as a school;
- The alternative school must have a required minimum number of students in the tested grade levels. The definition of "required minimum" is stated in section 2.006.19, and
- At least fifty percent (50 percent) of the total school population must have been enrolled in the school for the entire school year, October 1 - May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curriculum developed from Louisiana Content Standards, shall be included in the state-testing program, with those scores included in an SPS.

Students 16 years of age and older who are enrolled in a Pre-GED program, not pursuing a regular high school diploma, shall not be included in the state-testing program and shall not be included in an SPS. Information on these students, e.g., number receiving a GED, shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

**Inclusion of Lab Schools and Charter Schools**

Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent" schools and cannot be "paired" or "shared" with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based" district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive an SPS. Instead, the state shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1998-99 and 1999-2000 academic school years, detention and Department of Corrections facilities shall NOT receive an SPS.

### **Inclusion of Students with Disabilities**

**2.006.18** All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT tests shall be included in the calculation of the SPS. Most students with disabilities, approximately 80 percent of students with disabilities, shall take the CRT and the NRT tests with accommodations, if required by their Individualized Education Program. A small percentage of students with very significant disabilities, approximately 20 percent of students with disabilities, shall participate in an alternate assessment, as required by their IEP.

### **Inclusion of Schools with Very Low Numbers of Students**

**2.006.19** A minimum amount of test data shall be required for School Accountability calculations. To be included, a school shall have at least 40 testing units on the statewide criterion-referenced test. A testing unit is one subject test for one student, e.g., English language arts or mathematics. A school shall have at least 20 students with composite scores on the statewide norm-referenced test.

Weegie Peabody  
Executive Director

9911#048

## **RULE**

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

Bulletin 741—Louisiana Handbook for School Administrators—Louisiana Educational Assessment Program—LEAP 21 (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 content of the procedural block clarifies that the performance standards for *LEAP for the 21st Century* (LEAP 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

## **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**

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**AUTHORITY NOTE:** Promulgated in accordance with 17:6.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), amended LR 25:2166 (November 1999).

#### **Louisiana Educational Assessment Program**

**1.009.03** Each school system shall participate in the Louisiana Educational Assessment Program.

Performance standards for *LEAP for the 21st Century* (LEAP 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

District-wide test results, but not scores or rankings of individual students, shall be reported to the local educational governing authority at least once a year at a regularly scheduled local educational governing authority meeting.

Systems shall not conduct any program of specific preparation of the students for the testing program by using the particular test to be administered therein.

Weegie Peabody  
Executive Director

9911#050

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 746—Hiring Full-Time/Part-Time Noncertified School Personnel (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 the rule which extends until July 1, 2000, the current policy which allows noncertified school personnel to be employed by local school systems when there is no certified teacher available. The revision is a change to the *Louisiana Administrative Code*, 28:I.903.I. There is no change proposed in the content of the current policy which allows school systems to employ noncertified teachers when there is no certified teacher available. The change extends the date only.

#### 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

\* \* \*

##### I. Noncertified Personnel

Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by local public education agencies experiencing extreme difficulty in employing certified teachers for the classroom, provided that the following documentation is submitted to the Department of Education:

A signed affidavit by the local superintendent that the position could not be filled by a certified teacher;

Submission of names, educational background, subject matter and grade level being taught as an addendum to the Annual School Report.

##### A. Individuals employed under this policy must:

1. hold a minimum of a baccalaureate degree from a regionally accredited institution;
2. take all appropriate areas of the PRAXIS/NTE at the earliest date that it is offered during the first year of employment and all appropriate areas at least once each year during subsequent years of employment; and
3. earn six semester hours of college course work each year as indicated below.

a. Teachers who have not completed a teacher education program must:

- (1) within the first year of employment and prior to consideration for re-employment the second year, be

officially admitted to a teacher education program; obtain a prescription or outline of course work required for certification; and achieve the required scores on the PRAXIS Pre-Professional Skills Tests in Reading, Writing, and Mathematics. The appropriate score(s) on the Communication Skills and/or General Knowledge portions of the NTE may be accepted only if the test(s) was taken prior to September 1999;

(2) prior to consideration for re-employment each year, complete at least six semester hours of college course work as prescribed by the college or university to complete a teacher education program.

b. Teachers who have completed a teacher education program but who have not achieved the required scores on all parts of the PRAXIS/NTE, prior to consideration for re-employment each year, must earn six semester hours appropriate to the area of the PRAXIS/NTE (Pre-Professional Skills Tests in Reading, Writing, and Mathematics, the Principles of Learning and Teaching K-6 or 7-12, and the subject assessments/specialty area tests) in which the score was not achieved. Appropriate scores achieved on portions of the NTE which were formerly required may be used provided the score was achieved prior to the date the test(s) was discontinued for use in Louisiana.

A university sponsored seminar, workshop or course specially designed for preparing for the PRAXIS/NTE may be used once to substitute for three semester hours of the required course work. Documentation from the university must be provided to verify participation.

B. The following documentation, as appropriate, shall be kept on file in the LEA's Superintendent's/Personnel Office:

1. official transcripts showing a minimum of a baccalaureate degree from a regionally accredited institution;
2. documentation that the teacher has been officially admitted to a teacher education program, if applicable;
3. an outline by the college or university of the course work required for certification, or an outline of courses to help achieve the appropriate PRAXIS/NTE scores for persons who have completed a teacher education program;
4. official transcripts showing successful completion of the six semester hours as prescribed by the college or university since the last employment under this policy;
5. documentation to verify one-time participation in a university sponsored or state approved seminar/workshop/course for PRAXIS/NTE preparation for teachers who have completed a teacher education program;
6. an original PRAXIS/NTE score card showing the PRAXIS/NTE has been taken in all appropriate areas since the last employment under this policy; and
7. documentation that efforts for recruitment of certified teachers have been made (e.g. newspaper advertisements, letters, contacts with colleges, and so forth).

C. These individuals shall be employed at a salary that is based on the effective state salary schedule for a beginning teacher with a baccalaureate degree and a certificate with zero years of experience. Local salary supplements are optional.

D. The total number of years a person may be employed according to the provisions of this policy is five years.

E. To be eligible for re-employment under this policy, a teacher who has not met the requirement of earning six

semester hours of college credit or who has not taken the PRAXIS/NTE must meet one or more of the following conditions.

1. Medical Excuse. When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the teacher that six semester hours will be earned prior to the beginning of the next school year.

2. Required Courses Not Available. A letter of verification from area universities is required stating that the required courses are not being offered.

3. Change of School, Parish, or School System. Re-employment is permitted only if the change is not part of a continuous pattern.

4. Change of Certification Areas. Re-employment is permitted with assurance that the requirements for continued employment under this policy will be met.

(These are the only conditions that may be used. Documentation which supports the above condition must be maintained in the teacher's personnel file.)

THIS INTERIM EMERGENCY POLICY WILL REMAIN IN EFFECT UNTIL JULY 1, 2000.

This policy does not apply to university laboratory schools.

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

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 25:2167 (November 1999).

Weegie Peabody  
Executive Director

9911#049

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1213—Minimum Standards for School Buses  
(LAC 28:XXV.537)

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, and adopted in codified format in the *Louisiana Register*, April 1999. The amendment allows two decals on school buses to acknowledge the free cellular phone services made available to that school system by a provider.

**Title 28  
EDUCATION**

**Part XXV. Minimum Standards for School Buses  
Chapter 5. Bus Body Standards  
§537. Identification**

A. - F.2. ...

3. No more than two signs, not to exceed 18" x 7", acknowledging a cellular telephone service provider may appear on the side of a school bus. One sign shall be placed to the immediate left of the main door. The other sign shall be placed below or to the right of the driver's side window.

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 25:646 (April 1999), amended LR 25:2168 (November 1999).

Weegie Peabody  
Executive Director

9911#051

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1213—Minimum Standards for School Buses  
(LAC 28:XXV.1701)

(Editor's Note: The following section, which appeared on page 653 of the April 20, 1999 *Louisiana Register*, is being republished to include text which was inadvertently omitted.)

**Bulletin 1213—Minimum Standards for School Buses  
(LAC 28:XXV.Chapters 1-17)**

**Title 28**

**EDUCATION**

**Part XXV. Bulletin 1213—Minimum Standards for  
School Buses in Louisiana**

**Chapter 17. Appendix A**

**§1701. T-10 Form**

MANDATORY FORM T-10

rev: 7/94

STATE DEPARTMENT OF EDUCATION DATE: \_\_\_\_\_

GUARANTEED FROZEN MILEAGE: \_\_\_\_\_

I propose to sell \_\_\_\_\_ the following described NEW/USED school bus.

(Contract Owner or School Board) (circle one)

CHASSIS	_____	BODY	_____
YEAR MODEL	_____	YEAR MODEL	_____
MAKE	_____	MAKE	_____
SERIAL NUMBER	_____	SERIAL NUMBER	_____
MILEAGE	_____	MILEAGE	_____
CONDITION	_____	CONDITION	_____

This vehicle meets all Federal Motor Vehicle Safety Standards and Bulletin 1213 specifications applicable at the date of manufacture.

I verify that the above information is true and correct to the best of my knowledge.

OFFICIAL PURCHASE AGREEMENT DATE: \_\_\_\_\_

LICENSE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE (Seller)

\_\_\_\_\_  
COMPANY

\_\_\_\_\_  
ADDRESS

Purchased by: \_\_\_\_\_ Approved by: \_\_\_\_\_  
SIGNATURE LOCAL SCHOOL SYSTEM

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
SIGNATURE OF LOCAL SCHOOL SYSTEM  
SUPERINTENDENT/TRANSPORTATION  
SUPERVISOR

COPIES SENT TO:  
WHITE/STATE DEPARTMENT OF EDUCATION  
CANARY/TRANSPORTATION DEPARTMENT  
PINK/PURCHASER  
GOLD/VENDOR

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:653 (April 1999), repromulgated LR 25:2168 (November 1999).

Weegie Peabody  
Executive Director

9911#003

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 1475—Operational and Vehicle Maintenance Procedures (LAC 28:XXIX.901)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted an amendment to Bulletin 1475 promulgated in LR 2:198 (June 1976), referenced in LAC 28:I.915.C, and adopted in codified format in the *Louisiana Register*, May 1999. The amendment provides instructions to school bus drivers of those buses that are equipped with cellular telephones.

#### Title 28

#### EDUCATION

#### Part XXIX. Bulletin 1475—Operational and Vehicle Maintenance Procedures

#### Chapter 9. Vehicle Operations

#### §901. Specific Procedures

A.1. - 7.j. ...

k. The use of cellular telephones by school bus operators shall be authorized only under the following conditions:

- i. an emergency situation exists, such as a mechanical problem, accident, illness of driver or passenger;
- ii. bus is pulled safely out of traffic (if possible) and motor is turned off.

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, LR 25:835 (May 1999), amended LR 25:2169 (November 1999).

Weegie Peabody  
Executive Director

9911#047

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 1566—Guidelines for Pupil Progression (LAC 28:XXXIX.Chapters 1-11)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted revised Bulletin 1566, Guidelines for Pupil Progression. The revised guidelines for Pupil Progression incorporate the High Stakes Testing Policy and other policies related to the promotion and retention of

students. School systems will implement the new guidelines with the 1999-2000 school session.

#### Title 28

#### EDUCATION

#### Part XXXIX. Bulletin 1566—Guidelines for Pupil Progression

Editor's Note: Bulletin 1566 was promulgated in LR 6:144 (April 1980), amended LR 11:685 (July 1985) and LR 16:766 (September 1990), promulgated LR 19:1417 (November 1993), amended LR 24:2081 (November 1998). Historical notes will reflect activity on individual sections from November 1999 forward.

#### Chapter 1. Purpose

#### §101. Foreword

A. This publication represents a forward step in the implementation of a vital component of R.S. 17:24.4. These Guidelines represent a cooperative effort of offices in the Louisiana Department of Education (LDE), and educators from across the State.

B. The Louisiana Department of Education will continue to provide leadership and assistance to school systems in an effort to attain a public system of education that makes the opportunity to learn available to all students on equal terms.

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).

#### §103. Preface

A. "The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just and designed to promote excellence in order that every individual may be afforded an equal opportunity to achieve his full potential" (Preamble to Article VIII, Louisiana Constitution). This goal statement from the Constitution suggests that public elementary and secondary education is only a part of a continuum of services that should be available to assist each individual to identify and reach his/her own educational or training goals as quickly and effectively as possible.

B. The amendment and enactment of the Louisiana Competency-Based Education Program, Act 750, (R.S. 17:24.4) by the Louisiana State Legislature in Regular Session during the summer of 1997, was the result of an ever-increasing demand by Louisiana's taxpayers for a better accounting of their educational dollars. A forerunner of Act 750 was Act 621, the Public School Accountability Law. This far-reaching statute called for:

1. the establishment of a program for shared educational accountability in the public educational system of Louisiana;
2. the provision for a uniform system of evaluation of the performance of school personnel;
3. the attainment of established goals for education;
4. the provision of information for accurate analysis of the costs associated with public educational programs;
5. the provision of information for an analysis of the effectiveness of instructional programs; and
6. the annual assessment of students based on state content standards.

C. The Louisiana Competency-Based Education Law evolved from the Accountability Law into a unique program that encompasses all recent educational statutes, providing

opportunities for students to learn systematically and opportunities for educators to gear instructional programs to achievement based on specific objectives.

D. The Louisiana Competency-Based Program is based on the premise that the program must provide options to accommodate the many different learning styles of its students. Every effort is being made to tailor the curriculum to the needs of the individual student, including the student with special instructional needs who subsequently needs curricular alternatives. Such a practice enhances the probability of success, since the student is provided with an instructional program compatible with his individual learning styles as well as with his needs.

E. The Louisiana State Legislature in Regular Session during the summer of 1997 amended and reenacted R.S. 17:24.4 (F) and (G) (1), relative to the Louisiana Competency-Based Education Program, to require proficiency on certain tests as determined by the State Board of Elementary and Secondary Education (SBESE) for student promotion and to provide guidelines relative to the content of Pupil Progression Plans.

F. The amended sections relate state content standards adopted for mathematics, English language arts, science, and social studies, to the Louisiana Educational Assessment Program (LEAP), and to the comprehensive Pupil Progression Plans of each of the 66 local educational agencies.

G. A *Pupil Progression Plan* is a comprehensive plan developed and adopted by each parish or city school board; it shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives that are compatible with the Louisiana Competency-Based Education Programs and that supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain tests as determined by the SBESE before he or she can be recommended for promotion.

H.1. The revised Section G of the Competency-Based Education Program, Act 750, addresses the Pupil Progression Plan as follows:

Each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Each committee shall participate and have input in the development of the Pupil Progression Plans provided for in this Section. Each parish or city school board shall have developed and shall submit to the State Department of Education a Pupil Progression Plan which shall be in accordance with the requirements of this section and be based upon student achievements, performance, and proficiency on tests required by this section. Each parish or city school board plan for pupil progression shall be based on local goals and objectives which are compatible with the Louisiana Competency-Based Education Program numerated in R.S. 17:24.4 (B), which comply with the provisions of R.S. 17:24.4 (A) (3), and which supplement the performance standards approved by the State Board of Elementary and Secondary Education. Each local school board shall establish a policy regarding student promotion or placement which shall comply with the provisions of this Section, including the requirements for Pupil Progression Plans. Based upon the local school board policy, which policy shall be developed with the participation and input of the committee provided for in this Subsection G, each teacher shall, on an individualized basis, determine promotion or placement of each student. Each local school board may

review promotion and placement decisions in order to insure compliance with the established policy. Review may be initiated by the local board, superintendent, or parent or guardian. Those students who fail to meet required proficiency levels on the state administered criterion-referenced test of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

2. Those persons responsible for developing local Pupil Progression Plans must build their plans on a broad-based instructional program fluid enough to accommodate the individual student's previous experience, his acquired skills and abilities, and his deficiencies and disabilities, while at the same time maintaining a balance in the student's curricular experiences.

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).

### **Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan**

#### **§301. Development of a Local Plan**

##### **A. Committee of Educators**

1. The State Board of Elementary and Secondary Education (SBESE) and the Louisiana Department of Education (LDE) require assurances that the local education agency (LEA) Supervisors of Elementary and Secondary Education, Special Education, Vocational Education, Adult Education, Title I, teachers and principals and other individuals deemed appropriate by the local Superintendent are included in the development of the parish Pupil Progression Plan.

##### **B. Committee of Parents**

1. Act 750 of the 1979 Louisiana Legislature states that "each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Such committees shall participate and have input in the development of the Pupil Progression Plan."

2. A committee representing the parents of the school district shall be appointed by each city and parish school board. Procedures shall be established whereby this committee shall be informed of the development of the Pupil Progression Plan. Opportunities shall be provided for parents to have input into the development of the local plan.

3. Due process and equal protection considerations require the local board to include on the parent committee representatives of various disability groups, racial, socio-economic, and ethnic groups from the local district.

4. The local board shall provide staff support to the parent committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2170 (November 1999).

#### **§303. Description of Committees**

A. The local school system shall keep on file a written description of the method of selection, composition, function and activities of the local committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2170 (November 1999).

### **§305. Public Notice**

A. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meetings Law. [R.S. 42.4.2(A) (2); Attorney General's Opinion Number 79-1045]

B. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan is adopted, it will be submitted to the SBESE for approval pursuant to Act 750. Once the plan is approved by the SBESE, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

C. The statement defining the committee-selection process and the Pupil Progression Plan are public documents and must be handled within the guidelines of the Public Records Act (R.S. 44:1-42).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999).

### **§307. Approval Process**

#### **A. Approval**

1. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance for review by the LDE.

#### **B. Review and Revision**

1. Local Pupil Progression Plans must be accompanied by a completed checklist.

2. Local systems will be informed in writing of approval.

3. Local systems whose plans need revision will be informed of needed changes.

4. Local systems are to resubmit revised plans for final approval, following the procedures outlined in Part B under Public Notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999).

## **Chapter 5. Placement Policies; State Requirements**

### **§501. State Requirements**

A. Each local Pupil Progression Plan shall contain written policies relative to regular placement and alternatives to regular placement. Such policies must conform to the requirements of these guidelines.

B. Based upon local school board policy pursuant to these guidelines, each teacher shall, on an individualized basis, determine promotion or placement of each student [Act 750; R.S. 17:24.4(G)]. Local School Board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students and to students placed in alternative programs. Placement decisions for exceptional students must be made in accordance with the least restrictive environment requirements of state and federal laws (Act 754 regulations, subsection 443).

C. No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teacher, or other administrative staff members of the school or the central staff of the parish or city school board shall attempt, directly or indirectly, to influence, alter, or otherwise affect the grade received by a student from his/her teacher (R.S. 17:414.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999).

### **§503. Regular Placement<sup>1</sup>**

#### **A. Promotion—Grades K-12**

1. Promotion from one grade to another shall be based on the following statewide evaluative criteria.

a. Requirements in Bulletin 741, Louisiana Handbook for School Administrators

i. Each plan shall include the school attendance requirements.

ii. Each plan shall include the course requirements for promotion by grade levels.

iii. Each plan shall include other applicable requirements.

b. Requirements of the Louisiana Educational Assessment Program

i. Each plan shall include the statement that, in addition to completing a minimum of 23 Carnegie units of credit as presented by SBESE, the student shall be required to pass all components of the Graduation Exit Examination in order to receive a high school diploma.

ii.(a). No fourth or eighth grade student shall be promoted if he or she scores at the "Unsatisfactory" level on the English language arts or mathematics components of LEAP for the 21st century (LEAP 21).

(b). Exceptions. This state policy may be overridden by the School Building Level Committee (and therefore the student can be promoted) only under the following conditions:

(i). if a given student scores at the "Unsatisfactory" level in English language arts or mathematics and scores at the "Proficient" or "Advanced" level in the other;

(ii). if a student with disabilities has participated in an alternative assessment;

(iii). for the 1999/2000 school year only, if a given student had been formerly classified as Alternative to Regular Placement (ARP) during the 1997-98 school year and if that student has participated in summer programs and retesting.

iii. Summer school and end-of-summer retest must be offered by school systems at no costs to all students who score at the "Unsatisfactory" level.

iv. Fourth grade students who are 12 years old on or before September 30 (and still have not scored above "Unsatisfactory") must be enrolled in an alternative setting or program.

v. A school system, through its superintendent, may apply for an appeal on behalf of individual fourth grade students who have not scored above the "Unsatisfactory" level after retesting provided that certain criteria are met.

vi. 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 take non-credit 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.

(b). Option 3—placement in an alternative program/setting, job skills training program or other program designed to meet students' needs. Students are working toward a GED, certificate of completion, or other diploma options. Students in Option 3 may choose to take the eighth grade LEAP 21 for a maximum two years.

vii. Exceptional students participating in LEAP 21 must be provided with significant accommodations as noted in the students IEP.

viii. The aforementioned policies will be in effect from Spring 2000 through Spring 2003. Beginning in Spring 2004, the policies will also apply to students scoring at the "Approaching Basic" level.

c. Other Requirements

i. Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion.

B. Retention—Grades K-12

1. Retention of a student shall be based upon the student's failure to meet the criteria established by local boards for promotion and other criteria contained in these guidelines.

C. Acceleration

1. Grades K-8

a. The local school board shall establish written policies and procedures for the placement of students who evidence that they will benefit more from the instructional program at an advanced grade level.

2. Grades 9-12

a. The local school board shall follow the policies and procedures established in Bulletin 741, *Louisiana Handbook for School Administrators*, and other local requirements for student acceleration.

D. Transfer Students

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home study programs (public, nonpublic, (both in and out-of-state), and foreign countries).

<sup>1</sup>Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999).

**§505. Progression—Students Participating in Alternate Assessment**

A. The local school board shall establish written policies for progression of those exceptional students who are participating in alternate assessment.

1. The students participating in the alternate assessment will progress from one grade level to the next if they meet the following assurances.

a. The student has met attendance requirements according to Bulletin 741.

b. The student has completed 70 percent of his annual goals.

c. Transition planning, if noted on the IEP, has been addressed by the student and documented by the teacher.

d. The student participated in the alternate assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999).

**§507. Alternatives to Regular Placement**

A. The local school board shall establish written policies for all alternatives to regular placement. Prior to a student's being removed from the regular program and being placed in an alternative program, written informed consent by the student's parents or guardians must be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999).

**§509. Alternative Schools/Programs**

A. The local school board may establish alternative schools/programs which shall respond to particular educational need(s) within the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999).

**§511. Review of Placement**

A. Review of promotion and placement decisions may be initiated by the local school board, superintendent and/or parent or guardian [Act 750; R.S. 17:24.4(G)].

B. Each local school board may adopt policies whereby it may review promotion and placement decisions in order to insure compliance with its local plan [Act 750; R.S. 17:24.4(G)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999).

**§513. Policies on Records and Reports**

A. Local school systems shall maintain permanent records of each student's placement, K-12. Each record shall be maintained as a part of the student's cumulative file.

B. Student records for the purposes of these guidelines shall include:

1. course grades;
2. scores on the Louisiana Educational Assessment Program;
3. scores on local testing programs and screening instruments necessary to document the local criteria for promotion;
4. information (or reason) for student placement (see definition of *placement*);
5. documentation of results of student participation in remedial and alternative programs;
6. special education documents as specified in the approved IDEA-Part B, LEA application;



7. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial program;

8. a copy of the parent's written consent for either the placement of a student in or the removal of a student from an alternative to regular placement program;

9. a statement regarding written notification to parent concerning retention and due process procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999).

#### **§515. Policies on Due Process**

A. Due process procedures for teachers, students, and parents shall be specified in each local Pupil Progression Plan as related to student placement. The local school system must assure that these procedures do not contradict the due process rights of exceptional students as defined in the IDEA-Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999).

### **Chapter 7. Placement Policies; Local Options**

#### **§701. Local Options**

A. In addition to the statewide mandatory criteria for student placement in Chapter 5, §501 of these guidelines, local school boards, by written local policies, may also establish local criteria to be used in determining student placement. Such criteria shall be compatible with the statewide criteria established in Chapter 5, §501 and shall be submitted to the LDE as part of the local Pupil Progression Plan.

B. Local option criteria for Pupil Progression Plans shall conform to the following guidelines. Additionally, at the option of local school systems, the plans may include other factors to be considered in pupil placements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999).

#### **§703. Legislative Guidelines**

A. Local school systems are encouraged to develop local criterion-referenced testing programs for local assessment use [Act 621; R.S. 17:391.7(G) and Act 750; R.S. 17:24(H)].

B. Local criteria for K-12 must supplement the content standards approved by the SBESE [Act 750; R.S. 17:24(G)].

C. Local criteria must be coordinated with statewide curricular standards for required subjects, to be developed as part of the competency-based education plan [Act 750; R.S. 17:24.4(E) and (G)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999).

#### **§705. Departmental Guidelines**

A. Student scores on local testing programs may be used as additional criteria for determining pupil progression. Additional skills may be specified and tested for mastery at the local level as additional criteria for placement.

B. With reference to pupil placement, the local school system shall state the name of the instrument and publisher of other testing and screening programs to be used locally in grades K-12 for regular and exceptional students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999).

### **§707. Other Local Option Factors**

A. In conjunction with the enumerated legislated guidelines and LDE directives, local school systems may include evaluative criteria in their local Pupil Progression Plans. If other criteria are used, the Pupil Progression Plan must so specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999).

### **Chapter 9. Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program**

#### **§901. Preface**

A. The regulations for remedial education programs approved by the State Board of Elementary and Secondary Education are an addendum to Bulletin 1566, *Guidelines for Pupil Progression*, Board Policy 4.01.90. The regulations provide for the development of local remedial education programs by local education agencies.

B. The Louisiana Department of Education shall recommend for approval by the SBESE only those local remedial education plans in compliance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999).

#### **§903. Legal Authorization**

A. R.S. 17:24.4(G) provides that those students who fail to meet required proficiency levels on the state administered criterion-referenced tests of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

B. R.S. 17:394 - 400 is the established legislation for the remedial education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999).

#### **§905. Definition and Purpose**

A. Definitions

*Department*—is the Louisiana Department of Education.

*Remedial Education Programs*—are defined as local programs designed to assist students, including identified students with disabilities, to overcome their educational deficits identified as a result of the state's criterion-referenced testing program for grades 4 and 8 and the Graduation Exit Examination (R.S. 17:396, 397, 24.4 and Board Policy).

*State Board*—is the State Board of Elementary and Secondary Education.

B. Purpose

1. The purpose of the Louisiana Remedial Education Act is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board Pupil Progression Plans approved by the SBESE. A program of remedial education shall be put into place by local parish and city school systems following regulations adopted by the Department and approved by the State Board pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction (R.S. 17:395 A).

2. The intent of remedial educational programs is to improve student achievement in the grade appropriate skills identified as deficient on the state's criterion-referenced testing program for grades 4 and 8 and the Graduation Exit Examination (R.S. 17:395 B and Board Policy).

3. For the Graduation Exit Examination only, remediation shall be provided in English language arts, mathematics, and written composition to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4(G), 395 B and C and Board Policy).

4. Beginning in the Summer of 2000, remediation in the form of summer school shall be provided to students who score at the "Unsatisfactory" level on LEAP 21st Century (LEAP 21) English language arts or mathematics tests.

5. Beginning in the Fall of 2000 (or earlier), remediation shall be provided to students who score at the "Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) science and social studies tests.

6. Beginning in the Fall of 2000 (or earlier), remediation is recommended for students who score at the "Approaching Basic" level on LEAP for the 21st Century (LEAP 21) English language arts, mathematics, science, or social studies tests.

7. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school (R.S. 17:395 B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999).

**§907. Responsibilities of the State Board of Elementary and Secondary Education**

A The SBESE shall perform the following functions in relation to the remedial education program:

1. approve as a part of the Pupil Progression Guidelines (Bulletin 1566) the regulations for development of local remedial education programs designed to meet student deficiencies as identified through the Louisiana Educational Assessment Program in English/Language arts, written composition, mathematics, social studies and science (R.S. 17:399 A) for the Graduation Exit Examination and English language arts, mathematics, science and social studies for LEAP 21;

2. approve remedial education programs submitted by local education agencies as a part of their local Pupil Progression Plan (R.S. 17:398 B);

3. approve qualifications/certification requirements for remedial education teachers (R.S. 17:398 A);

4. receive from the Department an annual evaluation report on local remedial education programs that meet the requirements of R.S. 17:400 B;

5. approve the evaluation criteria developed by the Department for determining the effectiveness of remedial education programs [R.S. 17:399 B (2) and Board Policy].

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2174 (November 1999).

**§909. State Funding of Remedial Education Programs**

A. Remedial education funds shall be appropriated annually within the Minimum Foundation Program formula.

B. State remedial education funds shall be distributed to the parish and city school boards according to the distribution process outlined within the Minimum Foundation Program.

C. State funds for the remedial education program shall not be used to supplant other state, local, or federal funds being used for the education of such students (R.S. 17:399 (B)5). A plan for coordination of all state, local and federal funds for remediation must be developed by each LEA.

D. The use of state remedial education funds shall not result in a decrease in the use for educationally deprived children of state, local, or federal funds which, in the absence of funds under the remedial education program, have been made available for the education of such students [R.S. 17:399 (B)5].

E. For funding purposes, a student receiving remediation in English/Language arts, written composition, mathematics, social studies and/or science, shall be counted for each area in which remediation is needed (R.S. 17:398 B) for the Graduation Exit Examination and for English language arts and mathematics for LEAP 21.

F. Students in the State Remediation Program are also included in the student membership count for MFP funding purposes.

G. The remedial education program shall be coordinated with locally funded and/or federally funded remedial education programs, but shall remain as a separate remedial program.

H. If the Department determines through its monitoring authority that a city or parish board is not actually providing the type of remedial education program that was approved through its Pupil Progression Plan or is not complying with state evaluation regulations, the Department shall recommend appropriate action until such time as it is determined that the school board is in compliance with its approved Pupil Progression Plan and with state evaluation regulations.

I. The state and local funds expended in the program shall be included in the instructional parameters for each city or parish school board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2174 (November 1999).

### **§911. Criteria for State Approval**

#### **A. Student Eligibility**

1. Any public elementary or secondary student, including an exceptional student participating in LEAP 21, who does not meet the performance standards established by the Department and approved by the State Board, as measured by the state criterion-referenced tests, shall be provided remedial education (R.S. 17:397).

2. The failure of Special Education students to achieve performance standards on the state criterion-referenced tests does not qualify such students for special education extended school year programs (Board Policy).

#### **B. Teacher Qualifications**

1. Remedial teachers shall possess the appropriate certification/qualifications as required by the SBESE.

2. Parish and city school boards may employ an instructional paraprofessional under the immediate supervision of a regularly certified teacher to assist with the remediation. Paraprofessionals must have all of the following qualifications:

- a. must be at least twenty years of age;
- b. must possess a high school diploma or its equivalent; and
- c. must have taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student (R.S. 17:398A and Board Policy).

3. Parish and city school boards may employ educators already employed as regular or special education teachers to provide remedial instruction. These educators may receive additional compensation for remedial instruction, provided the services are performed in addition to their regular duties (R.S. 17:398 A).

#### **C. Program Requirements**

##### **1. Student Profile**

a. The Remedial Education Student Profile for the LEAP 21/Graduation Exit Examination, provided by the LDE shall be used by the local school system for providing remediation for each eligible student (Board Policy).

##### **2. Coordination With Other Programs**

a. The school system shall assure that coordination and communication occur on a regular basis among all who provide instruction for a student receiving remedial instruction (Board Policy).

##### **3. Instruction**

a. For the Graduation Exit Examination, remediation shall be provided in English language arts, mathematics and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4(G); 395 B and C and Board Policy).

b. Beginning in the Summer of 2000, remediation in the form of summer school shall be provided to students who score at the "Unsatisfactory" level on LEAP 21st Century (LEAP 21) English language arts or mathematics tests.

c. Beginning in the Fall of 2000 (or earlier), remediation shall be provided to students who score at the

"Unsatisfactory" level on LEAP for the 21st Century (LEAP 21) science and social studies tests.

d. Beginning in the Fall of 2000 (or earlier), remediation is recommended for students who score at the "Approaching Basic" level on LEAP for the 21st Century (LEAP 21) English language arts, mathematics, science, or social studies tests.

e. Instruction shall include but not be limited to the philosophy, the methods, and the materials included in local curricula that are based upon State Content Standards in mathematics, English language arts, science and social studies (Board Policy 3.01.08).

f. Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program (Board Policy).

g. Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need (R.S. 17:395.E).

#### **D. Student Assessment**

1. The parish and city school boards shall develop, as part of their Pupil Progression Plans, mastery criteria based on the State Content Standards and local curricula based on these standards (R.S. 17:395 D and Board Policy).

2. For Graduation Exit Examination these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, written composition, mathematics, social studies, and/or science in which he/she was found deficient (R.S. 17:395 D, 17:24.4(G) and Board Policy).

3. For LEAP 21, these mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, mathematics, science and social studies.

4. School systems shall describe the methods used to measure student achievement of these criteria (R.S. 17:395 D and Board Policy).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999).

### **§913. Local Program Development and Evaluation**

A. Each parish and city school board shall develop annually a remedial education program as part of its Pupil Progression Plan, which complies with the established regulations adopted by the Department and approved by the SBESE pursuant to R.S. 17.24.4. The remedial education plan shall be reviewed annually by the Department prior to recommendation for approval by the SBESE (R.S. 17:395 A and Board Policy).

B. The remedial education plan shall describe all remedial instruction and proposals for program improvement. Proposals shall include a narrative that shall incorporate the following:

1. program objective;
2. student population to be served and the selection criteria to be used;
3. methodologies, materials, and/or equipment to be used in meeting the remediation needs;
4. brief description of the remedial course;
5. plan for coordination of state, federal, and local funds for remediation;

6. procedure for documenting student's and parent(s) refusal to accept remediation;

7. evaluation plan encompassing both the educational process and the growth and achievement evidenced of students (R.S. 17:399A).

C. The remedial program shall be based on performance objectives related to educational achievement in grade appropriate skills addressed through the statewide curriculum standards for required subjects, and shall provide supplementary services to meet the educational needs of each participating student.

D. Each local school system shall adhere to the remedial education plan as stated in its approved Pupil Progression Plan and shall provide services accordingly (R.S. 17:400 A and Board Policy).

E. Each local school system shall include within the remedial education plan a summary of how state, federal, and local funds allocated for remediation have been coordinated to ensure effective use of such funds [R.S. 399 A (5) and B (4) and Board Policy].

F. Each local school system shall maintain a systematic procedure for identifying students eligible for remedial education (R.S. 17:397).

G. Each local school system shall offer remediation accessible to all students. Refusal to accept remediation by student and parent(s) must have written documentation signed by student and parent(s).

H. A list of all students eligible for remediation shall be maintained at the central office level with individual school lists maintained at the building level (Board Policy).

I. Each local school system shall participate in the evaluation of the Remedial Education Program conducted by the Department [17:399 A (6) and Board Policy].

J.1. Each local school system shall complete an annual evaluation of its program, using the approved Department guidelines, and shall submit the evaluation report to the State Superintendent by June 15 of each year [R.S. 17:399 B (1) and Board Policy]. The evaluation plan shall include specific means to examine and document:

- a. student performance;
- b. coordination with other programs;
- c. instruction.

2. The evaluation shall be conducted as described in the local evaluation plan (Board Policy).

K. Annually, prior to October 15, each school system shall report to the public the results of its efforts to provide a remedial education program and the results of the monitoring review submitted by the State Superintendent (Board Policy).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999).

#### **§915. State Department of Education Responsibilities**

A. The Department shall be responsible for reviewing plans, monitoring implementation, and evaluating the remedial education programs of the local school system (R.S. 17:400 A).

B. The State Superintendent of Education shall prepare an annual report for submission to the SBESE and the Joint Committee on Education of the Louisiana Legislature which shall contain:

1. the number of students participating in remedial education programs; and

2. the level of student achievement.

C. The department shall provide guidelines for local evaluation of programs, shall review the local evaluation plans, shall monitor the implementation of remedial education plans, and shall receive and approve evaluation reports (R.S. 17:400 A and Board Policy).

D. Within 60 days of receipt of the evaluation report from the local school system, the Department shall submit to each local school system an analysis of the system's evaluation report and the Department's monitoring results (Board Policy).

E. The Department shall provide technical assistance to the city and parish school boards which shall include:

1. assistance with development of the remedial section of the Pupil Progression Plan;
2. assistance with staff development;
3. assistance with the use of appropriate Department forms;
4. assistance with program implementation; and
5. assistance with conducting local evaluations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999).

#### **Chapter 11. Appendix A §1101. Definition Of Terms**

A. As used in this bulletin the terms shall be defined as follows:

##### **1. State Terms**

*Acceleration*—advancement of a pupil at a rate faster than usual in or from a given grade or course. This may include "gifted student" as identified according to Bulletin 1508.

*Alternate Assessment*—the substitute way of gathering information on the performance and progress of students who do not participate in typical state assessments.

*Alternative to Regular Placement*—placement of students in programs not required to address the State Content Standards.

*Content Standards*—statements of what we expect students to know and be able to do in various content areas.

*LEAP 21 Summer School*—the summer school program offered by the LEA for the specific purpose of preparing students to pass the LEAP 21 test in English language arts, or mathematics.

*Louisiana Educational Assessment Program (LEAP)*—the state's testing program that includes the grades 3, 5, 6, 7 and 9 Louisiana Norm-referenced Testing Program; the grades 4 and 8 Criterion-referenced Testing Program including English language arts, mathematics, social studies and science and the Graduation Exit Examination (English language arts, mathematics, written composition, science and social studies).

*Promotion*—a pupil's placement from a lower to a higher grade based on local and state criteria contained in these Guidelines.

*Pupil Progression Plan*—"The comprehensive plan developed and adopted by each parish or city school board which shall be based on student performance on the Louisiana Educational Assessment Program with goals and

objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain test as determined by SBESE before he or she can be recommended for promotion."

*Regular Placement*—the assignment of students to classes, grades, or programs based on a set of criteria established in the Pupil Progression Plan. Placement includes promotion, retention, remediation, and acceleration.

*Remedial Programs*—programs designed to assist students including identified exceptional and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Education Assessment Program and other local criteria.

*Remediation*—see Remedial Programs.

*Retention*—nonpromotion of a pupil from a lower to a higher grade.

## 2. Local Terms

a. The definition of *terms* used in a local school system plan must be clearly defined for use as the basis for interpretation of the components of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999).

Weegie Peabody  
Executive Director

9911#039

## RULE

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

Tuition Payment Program for Medical School Students  
(LAC 28:IV.2301, 2303, 2313)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby implements rules for the Tuition Payment Program for Medical School Students as follows.

#### Title 28 EDUCATION

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

#### Chapter 23. Tuition Payment Program for Medical School Students

#### §2301. General Provisions

A. - B. ...

1. annually awards not more than four monetary loans to eligible students who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least two consecutive years in a rural or poor community in Louisiana designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for two consecutive years as provided in these rules, the loans are forgiven in full.

2. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:2177 (November 1999).

#### §2303. Establishing Eligibility

A. - A.4. ...

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least two consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.D, above; and

A.6. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:2177 (November 1999).

#### §2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full-time primary care medical practice in a Designated Area for a period of two years, by monetary repayment or by cancellation.

B. Discharging the loan by entering into the full-time practice as a primary care physician in a Designated Area is accomplished by:

1. completing a residency in a primary care field of medicine within four (4) years of the graduation from medical school; and

2. practice as a primary care physician on a full time basis for a period of at least two consecutive years in a Designated Area.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:2177 (November 1999).

Jack L. Guinn  
Executive Director

9911#001

## RULE

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

Inactive and Abandoned Sites  
(LAC 33:VI.Chapters 1-8)(IA002)

Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the rule have not changed, with the exception of technical amendments to the proposed rule.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Inactive and Abandoned Sites regulations, LAC 33:VI.Chapters 1-8 (IA002).

This rule provides the framework for the discovery, investigation, and remediation of inactive and abandoned hazardous waste or hazardous substance contaminated sites. It also provides for the limitation of liability to prospective landowners of contaminated sites. R.S. 30:2226(H)(1), R.S. 30:2271 et seq., and R.S. 30:2285 et seq., require the department to promulgate regulations for notification to the department of hazardous substance discharge and disposals, to identify locations at which a discharge or disposal of a hazardous substance has occurred in the past, to provide a mechanism to the department to insure that the costs of remedial actions are borne by those who contributed to the discharge or disposal, to allow the department to respond as quickly as possible to discharges while retaining the right to institute legal actions against those responsible for remedial costs, and to provide for the opportunity for public meeting and, if requested, a public comment period. The basis and rationale for this rule are to comply with R.S. 30:2226(H)(1), R.S. 30:2271 et seq., and R.S. 30:2285 et seq.

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

### **Title 33**

## **ENVIRONMENTAL QUALITY**

### **Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Remediation Site**

#### **Chapter 1. General Provisions and Definitions**

##### **§101. Purpose and Objectives**

A. These regulations establish uniform administrative procedures for the regulated community for the identification, investigation, and remediation of inactive and abandoned hazardous waste or hazardous substance sites in accordance with the mandates of R.S. 30:2226(H)(1), 2274(C), and 2280.

B. These regulations provide for effective and expeditious site remediation activities that protect human health and the environment.

C. These regulations establish administrative procedures for site remediation actions by potentially responsible parties (PRPs) and for recovering remedial costs incurred by the department.

D. These regulations provide the opportunity for public participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2178 (November 1999).

##### **§103. Regulatory Overview**

A. Purpose. This Section provides an overview of identification, investigation, and remediation activities for sites where hazardous substances could have been disposed of and from which such hazardous substances could be discharged. This Section is a summary only; if there are any inconsistencies between this Section and the remainder of these regulations, the regulations shall govern.

###### **B. Site Discovery and Evaluation**

1. Site Discovery Reporting. These regulations establish a reporting program as required by the Louisiana Environmental Quality Act to help identify inactive or

uncontrolled sites where hazardous substances could have been disposed of or discharged. Owners, lessees, and other persons who know or discover that hazardous substances have been discharged or disposed of at such a site must report this information to the department within the specified time. The department may also discover sites through its own investigations, referrals from other agencies, or other means.

2. Integrated Data Management Database. Sites reported are placed in the department's integrated data management database. This database provides the department with an accurate inventory of all potential and confirmed sites in the state. All sites in the integrated data management database may not be remediated under the authority of the department; some sites may be referred to other federal and/or state programs, and some sites may not require remediation.

3. Preliminary Evaluation. A preliminary evaluation is conducted to determine if a discharge or disposal of hazardous substances has occurred at a site. The department may conduct limited sampling to determine if hazardous substances are present and/or migrating from a site. If no hazardous substances are present, the department may make a determination that No Further Action (NFA) is necessary. A NFA determination also may be made if the site falls under the jurisdiction of other state or federal agencies or if inadequate information is available to determine if the site exists. The information collected during a preliminary evaluation may be used to determine whether or not a remedial action is necessary at the site.

C. Remedial Action. The department has responsibility for determining the need for and appropriateness of remedial actions at hazardous substance sites and responsibility for implementing or authorizing such actions at any time after site discovery. The goal of the remedial action is to achieve minimum remediation standards.

1. A Remedial Investigation (RI) shall be performed by PRPs or the department. During this investigation, site conditions and contaminants will be characterized, the extent of risk to human health and the environment will be determined, preliminary remedial goals will be developed, and data for a corrective action study will be collected.

2. A corrective action study (CAS) shall be performed by PRPs or the department to develop appropriate remedial alternatives for achieving the preliminary goals identified in the RI report and to provide performance and cost data for use in evaluating these alternatives and selecting a remedy.

3. The department shall evaluate the RI and CAS and select a remedy that will protect human health and the environment.

4. When the appropriate remedy has been selected for the site, the remedy shall be implemented. The remedy may include post-remedial management.

D. Enforcement and Potentially Responsible Party Participation. It is the policy of the department that, where possible, the cost of actions taken in accordance with the act and these regulations shall be borne by potentially responsible parties. In furtherance of that policy, the department shall invite PRPs to participate in the investigation and remediation process. The department shall impose a limited moratorium on its own site work and enforcement action while it negotiates good faith offer(s)

received from one or more PRPs. The department retains the right to fully exercise all other enforcement authorities granted it by law, including administrative and judicial orders.

E. Public Information and Participation. The department shall provide public access to site-related information and shall provide opportunities for public participation in site-related decisions in accordance with the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2178 (November 1999).

#### **§105. Compliance with other Laws**

A. Nothing herein shall be construed to diminish the department's authority to address the presence at any site of any hazardous substance, hazardous waste, hazardous waste constituent, or other pollutant or contaminant under other applicable laws or regulations. The remediation and enforcement processes and procedures under these regulations and under other laws may be combined. The department may initiate a remedial action under these regulations and may, upon further analysis, determine that another law is more appropriate or vice versa.

B. If a hazardous substance, hazardous waste, hazardous waste constituent, or other pollutant or contaminant remains at a site after actions have been completed under other applicable laws or regulations, the department may apply these regulations to protect human health or the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999).

#### **§107. Authority**

These rules and regulations are established by the Department of Environmental Quality in accordance with R.S. 30:2001 et seq. and, in particular, 2221 et seq. and 2271 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2226(H)(1), 2274(C), and 2280 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999).

#### **§109. Enforcement**

Failure to comply with the provisions of these regulations or with the terms and conditions of any order issued hereunder constitutes a violation of the act and these regulations. Such violations shall be subject to any enforcement action including penalties in accordance with R.S. 30:2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(d)(6), 2203(B), 2204(B), and 2274(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999).

#### **§111. Construction of Rules**

A. Words in the singular also include the plural, and words in the masculine gender also include the feminine, and vice versa, as the case may require.

B. The terms *applicable*, *appropriate*, *relevant*, and similar terms implying discretion mean as determined by the

department, with the burden of proof on other persons to demonstrate that the requirements are or are not necessary.

C. *Approved* or *authorized* actions mean department-conducted or ordered remedial actions or cleanups agreed to by the department in an agreed order or cooperative agreement governing remedial actions at the site.

D. *Include* means included, but not limited to.

E. *May* means the provision is optional and permissive and does not impose a requirement.

F. *Shall* means the provision is mandatory.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999).

#### **§113. Severability**

The provisions of these regulations are severable, and if any provision or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or their applications, which can be given effect without the invalid provision or application.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999).

#### **§115. Computation of Time**

A. The day of the event from which the designated period begins to run shall not be included in the computation of a period of time allowed or prescribed in these regulations.

B. The last day of the period is to be included in the computation of a period of time allowed or prescribed in these regulations, unless it is a legal holiday, in which event the period runs until the end of the next day that is not a legal holiday.

C. A legal holiday is to be included in the computation of a period of time allowed or prescribed in these regulations, except when:

1. it is expressly excluded;
2. it would otherwise be the last day of the period; or
3. the period is less than seven calendar days.

D. A half-holiday shall be considered a legal holiday.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999).

#### **§117. Definitions**

A. For all purposes of these rules and regulations, the terms used in this Chapter shall have the meanings given below unless specified otherwise or unless the context or use clearly indicates otherwise.

*Abandoned Hazardous Waste Site*—a site that has been declared abandoned in accordance with R.S. 30:2225 and LAC 33:VI.Chapter 3.

*Act*—the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

*Administrative Authority*—the secretary of the Department of Environmental Quality or his authorized designee.

*Agent In Charge*—the person who represents a site at the time of sampling. This can be a representative of the following: the owner or operator, a PRP or group of PRPs, a

bankruptcy trustee, the executor of an estate, an attorney representing any of these parties, or any other person with similar responsibilities.

*Applicable Requirements*—those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental laws, state environmental laws, or facility siting laws that specifically address a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a site.

*Background Concentration*—the natural ambient concentration of a hazardous substance, including both naturally occurring concentrations and concentrations from human-made sources other than the site being evaluated.

*CERCLA*—the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq.

*Closure Plan*—a plan that identifies the steps necessary to perform the final closure of a facility. For the purposes of these regulations, a closure plan may be a remedial action work plan or removal work plan as described in LAC 33:VI.Chapter 5.

*Confirmed Site*—a site where the disposal or discharge of a hazardous substance has been confirmed by the department.

*Contaminant*—any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

*Cooperative Agreement*—a legally enforceable contract between the department and a Potentially Responsible Party.

*Corrective Action Study or CAS*—a process performed interdependently with the remedial investigation (RI) process whereby data generated from the RI are used to develop alternative remedial actions. These alternative remedial actions are then evaluated in terms of criteria established by these regulations to select an appropriate remedial action.

*Department*—Louisiana Department of Environmental Quality.

*Direct Hours*—time expended by employees of the department with regard to a specific site.

*Discharge*—the placing, releasing, spilling, percolating, draining, pumping, leaking, seeping, emitting, or other escaping of hazardous substances into the air, surface waters, subsurface or groundwater, soil, or sediments as the result of a prior act or omission, or the placing of hazardous substances into natural or manmade pits, drums, barrels, or similar containers under such conditions and circumstances that leaking, seeping, draining, or escaping of hazardous substances can be reasonably anticipated.

*Disposal*—the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous substances into or on any land or water such that hazardous substances could enter the environment, be emitted into the air, or be discharged into any water.

*Environmentally Sensitive Area*—an area needing an increased level of environmental protection, such as areas near schools and within wellhead protection areas; or an area having a terrestrial or aquatic resource, fragile natural setting, or other highly-valued environmental or cultural features such as wetlands, endangered or threatened species

habitat or breeding areas, national or state parks, wildlife refuges or management areas, areas near scenic or wild rivers or streams, or national or state forests.

*EPA*—the United States Environmental Protection Agency.

*Facility*—any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or any site or area where a hazardous substance has been deposited or could reasonably have been deposited, stored, disposed of, placed, or otherwise come to be located, not including any consumer product in consumer use.

*Financially Responsible*—able, through the use of insurance, bonds, or other assets, to take action as necessary or as ordered by the secretary in accordance with these regulations.

*Groundwater*—water in the saturated zone beneath the land surface.

*Hazardous Substance*—any gaseous, liquid, or solid material that, because of its quantity, concentration, or physical, chemical, or biological composition when released into the environment, poses a substantial present or potential hazard to human health, the environment, or property, regardless of whether it is intended for use, reuse, or is to be discarded. This term includes all hazardous waste, hazardous constituents, hazardous materials, and pollutants. The term *hazardous substance* does not include petroleum, including crude oil or any fraction thereof, that is not otherwise specifically listed or designated as a hazardous substance under this Section, and does not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). The term does include petroleum products that contain hazardous waste, hazardous substances, or hazardous waste constituents, except where the nature of such hazardous waste, substances, or constituents and the concentrations in which they are found in the petroleum products indicate that the contaminant is an indigenous component of the petroleum product. Notwithstanding the foregoing, the term *hazardous substance* does not include compressed air, firecrackers, carbon paper, coal briquettes, dry ice, fish meal, flares, electric wheel chairs, motor vehicles, and tear gas devices. The following substances have been designated as hazardous by regulation:

- a. hazardous waste as defined by R.S. 30:2173 and the hazardous waste regulations, LAC 33:V.Subpart 1;
- b. pollutants listed in LAC 33:I.3931;
- c. toxic air pollutants listed in LAC 33:III.5112; and
- d. hazardous materials listed in LAC 33:V.Subpart 2.

*Hazardous Substance Site*—any place where hazardous substances have come to be located, including without limitation, any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or any other place or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located. A hazardous substance site can extend beyond a facility's boundary.



*Hazardous Waste*—those wastes identified and designated as such by the department, consistent with applicable federal laws and regulations, and any waste or combination of wastes that, because of its quantity, concentration, physical, or chemical characteristics, can cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. The definition of hazardous waste does not include radioactive products and byproducts regulated by the United States Nuclear Regulatory Commission or any successor thereto.

*Hazardous Waste Constituent*—any fraction or residue of a hazardous waste.

*Hazardous Waste Site*—any place where hazardous wastes have come to be located, including without limitation, any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or any other place or area where hazardous waste has been deposited, stored, disposed of or placed, or otherwise come to be located. A hazardous waste site may extend beyond a facility's boundary.

*Inactive or Uncontrolled Site*—a site or a portion of a site that is no longer in operation.

*Institutional Control*—a measure undertaken to limit or prohibit certain activities that could interfere with the integrity of a remedial action or result in exposure to hazardous substances at a site.

*Leachate*—liquid, including any suspended components in the liquid, that has percolated through or drained from a hazardous substance or soil contaminated with a hazardous substance.

*Minimum Remediation Standards*—the levels of hazardous substances in media that are considered by the department to be acceptable according to risk-based standards established by the Risk Evaluation/Corrective Action Program (RECAP) in accordance with LAC 33:I.Chapter 13.

*No Further Action or NFA*—a determination that further evaluation or remedial actions by the department are not warranted at a particular site.

*Nonparticipating Party*—a person who refuses to comply with any demand by the department in accordance with LAC 33:VI, R.S. 30:2275, or with any administrative order, a person who fails to respond to any such demand or order, or a person against whom a suit has been filed by the department.

*Operation and Maintenance or O and M*—activities conducted at a site after a remedial action is completed to ensure that the action is effective and operating properly.

*Operator*—a person that is in control of or responsible for the operation of a site, facility, or pollution source.

*Oversight*—all activities performed by the department to ensure that the activities of PRPs in conducting site investigations or remedial actions relative to a site are performed in compliance with Louisiana statutes, applicable state and federal regulations, work plans approved by the department, and accepted practices and procedures. Oversight activities by the department include, but are not

limited to, site inspections; the review and approval of work plans, submittals, and reports; confirmatory sampling and analysis; the evaluation and interpretation of data, plans, and reports as submitted by PRPs; and public participation activities.

*Oversight Costs*—costs incurred by the department associated with oversight.

*Owner*—a person that owns a site, facility, or pollution source.

*Participating Party*—a person who undertakes a remedial action, as approved by the department, after receiving a demand from the secretary.

*Person*—any individual, municipality, public or private corporation, partnership, firm, the United States government and any agent or subdivision thereof, or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, the state of Louisiana, political subdivisions of the state of Louisiana, commissions, and interstate bodies.

*Pollutant*—those elements or compounds defined or identified as hazardous, toxic, noxious, or as hazardous, or radioactive wastes under the act and regulations, or by the secretary or commission, consistent with applicable laws and regulations.

*Pollution Source*—the immediate site or location of a discharge or potential discharge, including such surrounding property necessary to secure or quarantine the area from access by the general public.

*Post-Remedial Management*—activities conducted at a site following the completion of a final remedy when remedial goals have not been met and, in the judgment of the department, cannot feasibly be met.

*Potential Site*—a site at which a discharge or disposal of a hazardous substance is suspected by the department.

*Potentially Responsible Party or PRP*—any person who is potentially liable for a remedial action or remedial costs under state or federal law, including but not limited to, site owners and operators, and the generators, transporters, and disposers of hazardous substances.

*Preliminary RECAP Standards*—the level of hazardous substances proposed to remain in the media after the successful completion of a final remedy in accordance with RECAP.

*RCRA*—Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq.

*Relevant and Appropriate Requirements*—those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that, while not applicable to a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance at a site, address problems or situations sufficiently similar to those encountered at the site that their use is well suited to the particular site.

*Remedial Action*—the removal, confinement, or storage of any hazardous substance, including constructing barriers, securing the site, encapsulating in clay or other impermeable material, or otherwise containing or isolating the hazardous substance; cleaning up contamination; recycling or reusing of hazardous substances; diverting, destroying, or segregating reactive or other wastes; dredging or excavating a site; repairing or replacing leaking containers; collecting

leachate and runoff; on-site treatment or incinerating of a substance; providing alternative water supplies; monitoring, testing, or analyzing; employing legal, engineering, chemical, biological, architectural, or other professional consultants or personnel; investigating, initiating, or prosecuting of administrative proceedings or lawsuits to final judgment; transporting and disposing of waste from a site; and any other action the department deems necessary to restore the site or remove the hazardous substance. The definition of *remedial action* shall include all types of action referred to as response actions in CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan (*Federal Register* 55(46): 8666, March 8, 1990), and includes any action referred to as a remedy in these regulations.

*Remedial Cost*—all reasonable costs associated with site discovery, investigation, and evaluation; administrative costs of the department relative to a site; costs associated with public participation; oversight costs and costs including, but not limited to, removing, confining, or storing any hazardous substance; constructing barriers, securing the site, and encapsulating in clay or other impermeable material; cleaning up of contamination; recycling or reusing of a hazardous substance; diverting, destroying, or segregating reactive or other wastes; dredging or excavating a site; repairing or replacing leaking containers; collecting leachate and runoff; on-site treatment or incinerating of a substance; providing alternative watersupplies; monitoring, testing, or analyzing; employing legal, engineering, chemical, biological, architectural, or other professional consultants or personnel; investigating, initiating, or prosecuting lawsuits to final judgement; transporting and disposing of waste from the site; or any other action the secretary determines necessary to restore the site or remove the hazardous substance.

*Remedial Design* or *RD*—plans, including construction plans and specifications, necessary for implementation of the final remedy.

*Remedial Goals*—the concentration of a hazardous substance remaining in media at a site that is protective of human health and the environment, that has been approved and accepted by the department.

*Remedial Investigation* or *RI* or *Site Investigation*—an in-depth study designed to gather the data necessary to determine the nature and extent of contamination at a contaminated site and establish criteria for cleaning up the site.

*Remedial Investigation Work Plan*—a plan defining the process to be followed by one or more PRPs or the department to conduct an RI.

*Remedy* or *Final Remedy*—remedial actions that result in achieving remedial goals at a site. Remedies are distinguished from other types of actions considered remedial under the act and these regulations, including without limitation, investigation, monitoring, and enforcement activities.

*Removal Action*—a remedial action performed by the department, or by one or more PRPs as directed by the department, wherein hazardous substances, contaminated soils, and/or other contaminated media are taken from the site to a permitted facility for treatment, storage, or disposal.

*Risk*—the probability that a hazardous substance, when released into the environment, will adversely affect exposed humans, other living organisms, or the environment.

*Secretary*—the secretary of the Louisiana Department of Environmental Quality.

*Site*—a hazardous substance site or a hazardous waste site.

*Treatability Study*—the process of conducting bench scale and/or pilot scale studies to gather data to adequately evaluate the suitability of remedial technology on specific site wastes and conditions.

*Treatment*—any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous substance so as to neutralize such substance or render it nonhazardous, safer for transport, amenable for recovery or storage, or reduced in volume. The term includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it nonhazardous or significantly less hazardous.

*Wetlands*—those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999).

## **Chapter 2. Site Discovery and Evaluation**

### **§201. Site Discovery**

A. Site Discovery Reporting Requirements. As part of a program to identify inactive or uncontrolled contaminated sites, the owner, operator, or other responsible person shall report to the department any sites where hazardous substances have been, or could have been, disposed of or discharged. This Section sets forth the requirements for reporting such sites.

#### **B. Mandatory Reporting**

1. The following persons are required to notify the department of the discharge, emission, or disposal of any hazardous substance at an inactive or uncontrolled site:

- a. the owner, operator, or lessee of the site;
- b. any person who has directly contracted for the transportation of any hazardous substance to the site;
- c. any person who generated any hazardous substance that was discharged or disposed of at the site; or
- d. any person who discharged or disposed of any hazardous substance at a site.

2. The department must be notified regardless of whether the contaminants were discovered before or after the effective date of these regulations.

3. The department shall be notified in writing within 30 calendar days of the discovery of the discharge or disposal of any hazardous substance at an inactive or uncontrolled site. A written report shall be prepared and sent to Louisiana Department of Environmental Quality, Box 82178, Baton Rouge, LA 70884-2178. The date that the department was officially notified shall be determined as follows:

a. if the report was sent by U.S. mail or other courier service (e.g., Federal Express, United Parcel Service), the notification date shall be the date of the postmark on the envelope containing the written report; or

b. if the report was delivered by other means (e.g., hand-delivered, telefaxed), the notification date shall be the date of receipt of the report by the department.

4. Persons making written notification shall provide the following information, if known:

a. the location of the inactive or uncontrolled site;

b. the types of hazardous substances disposed of or discharged at the site;

c. the amounts of such hazardous substances;

d. other names the plant, facility, or site operated under in the past; and

e. the history of operations at the site.

5. The following discharges or disposals are exempt from these notification requirements; however, such exemption does not imply a release from liability in future actions by the department:

a. application of pesticides and other agricultural chemicals;

b. use of hazardous substances for domestic purposes;

c. a discharge or disposal in accordance with a permit or license issued by the department;

d. a discharge or disposal previously reported to the department in fulfillment of a reporting requirement in these regulations or in another law or regulation;

e. a discharge or disposal from the primary production, exploration, or distribution of petroleum or natural gas that would be regulated by the Louisiana Department of Natural Resources; or

f. a discharge or disposal of pesticides or agricultural chemicals that would be regulated by the Louisiana Department of Agriculture and Forestry.

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the department any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made in writing to the address given in Subsection B.3 of this Section or by telephone by calling (225) 765-0487.

D. Other Site Discovery Mechanisms. The department may take any other actions it determines appropriate to identify inactive or uncontrolled sites where the department suspects hazardous substances have been discharged or disposed or are currently present.

1. Potentially contaminated sites may be discovered by the department using:

a. information from or investigations by other governmental agencies or offices including, without limitation, local governmental departments, the Louisiana Department of Health and Hospitals, the United States Environmental Protection Agency, and any offices or divisions within the department;

b. information available in any permit or license application, hazardous substance or hazardous material release report, or other submittals to any state, federal, or local agency or office; or

c. bankruptcy notices.

2. Without limiting the foregoing, the department may investigate any facilities or sites that belong to certain classes of government or industrial activities or any activities conducted in environmentally sensitive areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2182 (November 1999).

### **§203. Integrated Data Management Database**

A. Each site reported to or discovered by the department in accordance with this Chapter will be placed in the department's integrated data management database. This database includes lists of both potential and confirmed sites.

B. Sites can be removed by the department from the potential or confirmed lists within the integrated data management database by means of a no further action (NFA) determination. A NFA determination is usually made after evaluation or remedial actions are completed. This determination may be made if:

1. no evidence of contamination by hazardous substance(s) was observed at the site;

2. the site does not fall under the jurisdiction of the department due to statutory, regulatory, or legal requirements;

3. remedial actions were successfully completed at the site;

4. any and all hazardous substances on site do not pose or present an imminent and substantial endangerment to health or the environment;

5. the site does not exist based on current information; or

6. adequate information is not available to determine whether or not the site does exist.

C. A NFA designation for a site by the department is based on current information and does not preclude other applicable responses taken by another regulatory program or agency. A NFA designation may be reversed if site conditions change or if new information becomes available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2183 (November 1999).

### **§205. Preliminary Evaluation**

A. The division may conduct a preliminary evaluation at any time after a site has been placed in the integrated data management database. The order in which sites are selected for evaluation shall be determined by the department, at its sole discretion, based upon available information and case assignment strategy.

B. The purpose of a preliminary evaluation is to provide sufficient information to make a determination for the disposition of the site by the department. To determine the disposition of a site the department may:

1. determine whether the site could best be handled under the authority of the United States Environmental Protection Agency or by state regulatory authority;

2. for sites under state authority, determine which state regulatory authority has jurisdiction over the site;

3. determine whether there is adequate evidence that hazardous substances have been discharged or disposed of at a site;

4. identify the hazardous substances (if present) and collect information regarding the extent and concentration of such substances;

5. identify site characteristics that could result in movement of the hazardous substances present at the site into or through the environment;

6. perform an initial evaluation of the potential risk to human health or the environment posed by the site; or

7. determine whether further investigation or action is necessary.

C. The owners, lessees, or agents in charge of sites undergoing evaluation shall:

1. provide the department, when applicable, with access to the site and to any buildings or structures on the site in accordance with R.S. 30:2012; and

2. allow the department to collect environmental samples at the site. If sampling is necessary, the department will make a reasonable attempt to notify the owner, lessee, or agent in charge in advance of the sampling date. If requested and if practical, the owner, lessee, or agent in charge will be allowed a split of any samples taken by the department. However, it is the responsibility of the owner, lessee, or agent in charge to obtain proper sample containers to receive the split samples and to provide for analysis at a laboratory. A copy of the chain of custody for the samples will be given to the owner, lessee, agent in charge, or their representative if present at the site at the time of sampling. A copy of the analytical results obtained by the department will be provided to the owner, lessee, or agent in charge.

D. If the department evaluates a site and assigns it confirmed site status, costs incurred by the department for that evaluation shall be recoverable as described in these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2183 (November 1999).

### **Chapter 3. Administrative Processes**

#### **§301. Assignment of Inactive and Abandoned Hazardous Waste Sites Program**

In accordance with R.S. 30:2222 the department is assigned the duties, responsibilities, and authority of administering the Inactive and Abandoned Hazardous Waste Sites Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2184 (November 1999).

#### **§303. Declaration that a Site is Abandoned**

A. Authorization. The department is authorized by chapter 10 of the act to declare a site abandoned after appropriate procedures are followed, to impose liens on such property, and to take investigation and remediation actions at such property as the department determines necessary. The department may declare a site to be abandoned upon a finding that the site:

1. has received for storage, treatment, or disposal or now contains or emits wastes that are identified, classified,

or defined to be hazardous wastes in accordance with these regulations;

2. was not closed in accordance with the requirements of the act, as defined in these regulations, and other regulations adopted thereunder;

3. constitutes or could constitute a danger or potential danger to human health and the environment; and

4. has no financially responsible owner or operator who can be located by the department or has one or more financially responsible owners or operators who have failed or refused to undertake actions ordered by the administrative authority in accordance with R.S. 30:2204(A) or (B).

#### **B. Site Owner(s) Notice and Response**

1. Prior to declaring a site to be an abandoned hazardous waste site, the administrative authority shall seek to notify each person who the department reasonably believes may own a current interest in the site that:

a. the site is to be declared abandoned;

b. the owner is liable for the costs of the investigation and remediation of the site;

c. the declaration of abandonment and/or use of the property for disposal of hazardous wastes may be recorded in the mortgage records of the parish where the property is located in accordance with R.S. 30:2039; and

d. a lien may be imposed on the property in accordance with R.S. 30:2225(F)(1).

2. In accordance with R.S. 30:2225(C), notice shall be published on three consecutive occasions in the official journal of the parish where the site to be declared abandoned is located.

3. Within 10 calendar days of the publication of the last official journal notice, any owner may request a hearing regarding the declaration of abandonment. If a request for a hearing is received, the department shall hold a hearing in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

#### **C. Effect of a Declaration of Abandonment**

1. Upon declaration that a site is abandoned, the secretary shall notify the attorney general of such declaration and request that the attorney general take such specific legal actions as requested by the department, including:

a. acquiring emergency easements and rights of way;

b. conducting negotiations for property acquisition; and

c. exercising the right of eminent domain, as provided by R.S. 30:2036, to secure the site or compel cleanup or containment of hazardous substances consistent with these and other regulations and guidelines established by the administrative authority.

2. No declaration of abandonment or other action by the department in accordance with this Section shall be construed to result in any transfer of liability to the state.

3. The administrative authority may record the declaration of abandonment in the mortgage records of the parish where the property is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2184 (November 1999).

### §305. Property Liens

#### A. Liens Against Property Declared Abandoned by the Department

1. In accordance with R.S. 30:2225(F)(1) the administrative authority, by recording the declaration of abandonment in the mortgage records of the parish where the property is located, may create a lien against the property declared to be abandoned for the lesser of:

- a. the extent of the expenditures by the state necessary to remedy the problem; or
- b. the extent of the property's appraised value after said expenditures.

2. The administrative authority may state in the declaration that the lien is limited to certain portions of the property declared to be abandoned.

3. The department may file a lien on property that has been declared abandoned prior to incurring any remedial action costs. The filing of a sworn statement of the amount expended perfects the lien retroactively to the date that the declaration of abandonment was recorded.

4. Liens on property that has been declared abandoned in accordance with this Chapter may be removed by the owner of the property as follows:

- a. the person requesting removal of a recorded lien on a site that has been declared abandoned may file a sworn statement with the department setting forth his or her ownership or other financial interest in the property;

- b. the owner may apply to the administrative authority or file an action in the district court seeking to require the clerk to erase the lien from the records. If the administrative authority or the court finds that the property owner has demonstrated, by a preponderance of the evidence, that the discharge was in no way caused by any action or negligence on the part of the owner, the administrative authority or the court shall authorize the clerk to release the lien; or

- c. the owner may apply to the administrative authority or file an action in the district court seeking to reduce the value of the lien to have the debt so recorded be reduced to the appraised value of the property. If the administrative authority or the court finds that such a reduction is appropriate, the administrative authority or the court shall authorize the clerk to reduce the value of the lien.

#### B. Liens Against Property Where the Department Has Taken Remedial Action Under Chapter 12 of the Act

1. In accordance with R.S. 30:2281, to assist in his recovery of remedial costs, the administrative authority may impose a lien on any immovable property within the state of Louisiana belonging to any PRP where the department has incurred remedial costs related to said property. The administrative authority may file this lien at any time after the department incurs remedial costs for which the owner of the immovable property is potentially liable. These costs may include all remedial costs.

2. Properly recorded liens filed by the department shall have priority in rank over all other privileges, liens, encumbrances, or other security interests affecting the property. Privileges, liens, encumbrances, or other security interests affecting the property that are filed or otherwise perfected before the filing of the notice of lien of the state authorized by these regulations shall remain as prior

recorded security interests only to the extent of the fair market value of the property prior to all remedial actions by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2185 (November 1999).

### Chapter 4. PRP Search, Notification, and Demand for Remediation

#### §401. PRP Search

##### A. Purpose

1. The purpose of this Chapter is to provide a mechanism for the department to ensure that the costs of remedial actions are borne by the potentially responsible parties for each site where hazardous substances are present, while at the same time reserving for the department the right to respond as quickly as possible to sites where hazardous substances could be present and the right to institute legal actions against those parties potentially responsible for remedial costs.

2. The department shall seek to identify potentially responsible parties (PRPs) and shall notify them that they are required to provide information to the department. The determination of who will be required to provide information shall be made at the sole discretion of the department. The department's failure to notify any particular PRP to submit information shall not preclude enforcement action by the department against that PRP or any other PRP, including actions for the recovery of remedial costs by the department, nor shall it preclude the department from taking any other action in accordance with the act, these regulations, or any other law.

##### B. Preliminary PRP List

1. The department may develop an initial list of PRPs if:

- a. there is an actual or potential discharge or disposal that could present an imminent and substantial endangerment to human health or the environment at a pollution source or facility; and

- b. if the department finds that any of the parties:

- i. generated a hazardous substance that was disposed of or discharged at the pollution source or facility;

- ii. transported a hazardous substance that was disposed of or discharged at the pollution source or facility;

- iii. disposed of or discharged a hazardous substance at the pollution source or facility;

- iv. contracted with a person for transportation or disposal of a hazardous substance at the pollution source or facility; or

- v. owns or owned or operates or operated the pollution source or facility subsequent to the disposal of a hazardous substance.

2. Additional PRPs may be added to the preliminary list at any time if the administrative authority determines that other parties fit within the categories of persons potentially responsible for the site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2185 (November 1999).

### **§403. Notification to Provide Information**

A. The administrative authority shall send a written notification to provide information to all PRPs identified during its preliminary PRP investigation. The administrative authority may, at its discretion, send supplemental or additional notifications to any PRP identified by the administrative authority at any time during the remedial action process.

B. The notification to provide information shall require each recipient to provide all available information regarding the specified site, including without limitation:

1. the types of hazardous substances and their chemical name or makeup, if known;
2. the quantities of hazardous substances disposed of or discharged;
3. the location(s) of disposal or discharge from any known pollution source or facility;
4. dates of disposal of hazardous substances and quantities disposed of on each date;
5. names of persons providing transportation of hazardous substances; and
6. names of owners or operators of the site at the time of disposal or discharge of hazardous substances.

C. PRPs must respond to the administrative authority within 45 calendar days of receipt of the notification to provide information. The administrative authority may grant reasonable extensions to the 45-day period upon written request submitted by a PRP prior to the expiration of the initial period.

D. Any PRP who willfully fails to provide the information required by the administrative authority in accordance with this Section shall be liable for a penalty of up to \$25,000 for each day of violation in accordance with R.S. 30:2274(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999).

### **§405. Demand for Remediation to PRPs**

A. Upon its determination that a discharge or disposal of a hazardous substance has occurred, or is about to occur, that could present an imminent and substantial endangerment to human health or the environment, the administrative authority shall issue a written demand for remediation to PRPs that have been identified by the administrative authority at the time the determination is made. This demand shall be made in accordance with R.S. 30:2275 and sent by certified mail.

B. Upon receipt of a demand for remediation, a PRP must respond to the administrative authority within 60 calendar days with a good faith proposal to undertake the remedial actions approved by the administrative authority in accordance with LAC 33:VI.705.B. The administrative authority may grant reasonable extensions to the 60-day period upon written request submitted by a PRP prior to the expiration of the initial period.

C. If any PRP fails to respond to a demand for remediation sent in accordance with this Section, the administrative authority may take all actions authorized under the act.

D. If, after investigation, the administrative authority determines that it is not feasible to make demand on every

known PRP for a particular site in accordance with R.S. 30:2275(D) and these regulations, then such demand may be limited to those parties determined most responsible by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999).

## **Chapter 5. Site Remediation**

### **§501. Remedial Actions**

A. A remedial action is an action that reduces a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance at a site or corrects a threat to human health or the environment that could become substantially worse or cost substantially more to address if the action is delayed.

B. The department shall consider the following factors in determining the need for or the appropriateness of a remedial action consistent with Subsection A of this Section:

1. actual or potential exposure from hazardous substances to nearby human populations, animals, or the food chain;
2. actual or potential contamination of drinking water supplies or sensitive ecosystems by hazardous substances;
3. the threat of release of hazardous substances in drums, barrels, tanks, or other bulk storage containers;
4. the threat of migration of hazardous substances from the site;
5. the threat of release or migration of hazardous substances or pollutants or contaminants caused by weather conditions;
6. the threat of fire or explosion;
7. the availability of other federal or state remedial mechanisms to respond to the release; or
8. the presence of other situations or factors that could pose threats to human health or the environment.

C. Remedial actions may occur at any time after site discovery. However, if the remedial action is performed prior to or in conjunction with a state preliminary evaluation, sufficient technical information regarding the site must be available to ensure that the remedial action is warranted and appropriate.

D. Remedial actions shall be implemented until the Risk Evaluation/Corrective Action Program (RECAP) standards developed in accordance with LAC 33:I.Chapter 13 have been attained. Remedial actions shall not be used to delay more feasible remedial actions.

E. The landowner must record a notation on the conveyance to the site property, or on some other instrument that is normally examined during a title search, that will in perpetuity notify any potential buyer of the property that the site has hazardous substances remaining at levels above department RECAP standards for residential use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999).

### **§502. Role of PRPs in Remedial Actions**

A. The department may, as its sole discretion, direct PRPs to perform any site investigation, remedial

investigation, corrective action study, and/or remedial action in accordance with the following:

1. the site investigation, remedial investigation, corrective action study, and/or remedial action shall be performed subject to a work plan approved by the department or performed subject to an enforceable cooperative agreement or judicial or administrative order;

2. the site investigation, remedial investigation, corrective action study, and/or remedial action shall be properly and promptly performed by the PRPs within statutory, regulatory, and administrative deadlines and in accordance with technical and procedural requirements set forth in these regulations and any other applicable laws, regulations, guidance documents, or policy statements;

3. the PRPs performing the site investigation, remedial investigation, corrective action study, and/or remedial action shall participate in any public participation activities determined by the department to be appropriate;

4. the PRPs must have and maintain a satisfactory record of compliance with environmental statutes and requirements; and

5. the PRPs must reimburse the department for all remedial costs as defined in these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999).

#### **§503. Minimum Remediation Standards and Risk Evaluation/Corrective Action Program Standards**

The goal of site remediation activities is to achieve the minimum remediation standards defined in the RECAP standards in accordance with LAC 33:I.Chapter 13. The standards shall be used in determining the remedial goals at the site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999).

#### **§505. Removal Action**

A. A removal action is a remedial action performed by the department, or by one or more PRPs as directed by the department, wherein hazardous substances, contaminated soils, and/or other contaminated media are taken from the site to a permitted facility for treatment, storage, or disposal.

1. Removal actions may:

a. achieve the RECAP standards for the site as a whole;

b. achieve the RECAP standards for a part of the site; or

c. provide a partial remedy (i.e., provide a remedy for some of the hazardous substances from all or part of the site, but not completely achieve the RECAP standards).

2. Removal actions shall be consistent with the final remedy (defined in LAC 33:VI.511) if the final remedy is known.

3. The success of the removal action shall be verified by the department, or PRPs as directed by the department, using confirmation sampling.

4. If the removal action results in achievement of the RECAP standards established by the department, the

department may determine that no further action is required. The department may then issue a decision document stating that the removal action is the final remedy and no further action is required.

5. If the removal action does not result in the achievement of the RECAP standards, as established by the department for the site as a whole, additional remedial actions (LAC 33:VI.507-515) shall be taken by the department, or by PRPs as directed by the department.

B. A removal action work plan shall be prepared by the department, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to the commencement of the removal action. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for a removal action work plan include:

1. a description of existing site conditions and a summary of all available data relevant to the removal action at the site;

2. a description of the intended removal action activities;

3. a sampling and analysis plan; and

4. a site-specific health and safety plan.

C. Opportunities for public participation may be provided by the department, or PRPs as directed by the department, in accordance with LAC 33:VI.Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999).

#### **§507. Remedial Investigation**

A. A Remedial Investigation (RI) includes:

1. the determination of the nature and extent of potential threats to human health and the environment through data collection and site characterization; and

2. the development of preliminary RECAP standards.

B. A RI shall be performed at all sites where a removal action is not performed or does not achieve the RECAP standards.

C. To complete a RI the department, or PRPs as directed by the department, shall provide the following:

1. Remedial Investigation Work Plan. A remedial investigation work plan shall be prepared by the department, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The remedial investigation work plan will conform with the site investigation requirements of RECAP and, at a minimum, include the following:

a. identification of all data needs following the review of existing preliminary evaluation reports and other existing data;

b. identification of all potential exposure pathways/receptors and associated data needs;

c. identification of any existing or potential natural resource damages and associated data needs and notification of the appropriate state and federal trustees;

d. identification of all potentially applicable, relevant, and appropriate state and federal requirements and associated data needs;

e. a site-specific health and safety plan including necessary training, procedures, and requirements;

f. a site-specific sampling and analysis plan that includes the number, type, and location of all samples to be taken and the types of analyses to be conducted during required site characterization activities; and

g. a quality assurance/quality control plan that identifies the quality assurance objectives and the quality control procedures necessary to obtain data of sufficient quality for the RI.

2. Field Investigations. In order to characterize the nature and extent of any threats to human health and the environment posed by the site, the department, or PRPs as directed by the department, shall conduct field investigations. These field investigations shall provide data sufficient to support the development of preliminary RECAP standards and the evaluation of remedial alternatives. Investigations may be conducted in multiple phases in order to focus sampling efforts and increase the efficiency of the investigation. Field investigations shall address the following, as applicable to the site:

a. physical characteristics of the site, including important surface features, soils, geology, hydrogeology, ecology, and meteorology;

b. characteristics or classifications of the air, surface water, and groundwater at the site;

c. characteristics of all contaminated media at the site;

d. characteristics of each contaminant at the site, including concentration, species (when applicable), toxicity, susceptibility to bioaccumulation, persistence, and mobility;

e. extent of the contamination at the site;

f. actual and potential exposure pathways through environmental media;

g. actual and potential receptors;

h. natural resources and sensitive populations or habitats that could be injured; and

i. other factors that impact the remedial alternatives investigated.

3. Establishment of Preliminary RECAP Standards. Preliminary RECAP standards shall be established in accordance with LAC 33:I.Chapter 13.

4. Remedial Investigation Report. Following the completion of the RI, a remedial investigation report shall be prepared by the department, or by PRPs as directed by the department. Any RI report prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report. At a minimum, this report shall include:

a. a scope and description of the investigation;

b. a site background summary;

c. sampling and analysis results;

d. identification of the sources of release;

e. identification of the horizontal and vertical extent of contamination;

f. proposed preliminary RECAP standards; and

g. conclusions and recommendations for further action.

D. The department shall provide, or shall direct PRPs to provide, opportunities for public participation and comment as required in LAC 33:VI.Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999).

#### **§509. Corrective Action Study**

A. A Corrective Action Study (CAS) includes:

1. the development of appropriate remedial alternatives for achieving the preliminary RECAP standards identified in the RI report; and

2. the provision of performance and cost data for use in evaluating these alternatives and selecting a remedy.

B. The CAS shall be used by the department or by PRPs to demonstrate that one or more remedial alternatives will meet the preliminary RECAP standards. Alternatively, PRPs may demonstrate in the CAS that compliance with the preliminary RECAP standards is technically infeasible and may propose alternative preliminary RECAP standards. The development and evaluation of alternatives in the CAS shall reflect the scope and complexity of the site problems being addressed.

C. Corrective Action Study Activities

1. Identification of RECAP Standards. Following approval of the RI report and the identification of the preliminary RECAP standards, the department, or PRPs as directed by the department, shall identify potential remedial alternatives for the site. Remedial alternatives identified and examined in the CAS should include a no further action (NFA) alternative and at least one treatment-based alternative. 2. Screening of Remedial Alternatives. Potential remedial alternatives shall be screened based upon the following criteria:

a. Effectiveness. The primary criterion for screening the alternatives is whether or not an alternative can effectively achieve the preliminary RECAP standards determined for the site as follows:

i. alternatives that have been proven capable of achieving the preliminary RECAP standard for contaminants and environmental media of concern shall be retained for further evaluation;

ii. alternatives that have been proven incapable of achieving the preliminary RECAP standards shall be eliminated from further consideration unless it is successfully demonstrated to the department that no known remedial alternative can achieve the preliminary RECAP standard; and

iii. alternatives that are unproven and are innovative technologies or approaches may be retained for further evaluation when it is successfully demonstrated to the department through treatability studies that the preliminary RECAP standards will be achieved;

b. Implementability. This criterion focuses on the technical and administrative ability of the department, or PRPs as directed by the department, to implement an alternative as follows:

i. technical implementability is determined by the availability of full-scale equipment, demonstrated processes, and remediation services to the department or the PRPs; and

ii. administrative implementability is determined by the ability of the department or PRPs to obtain all required permits or waivers;

c. Infeasible Alternatives. Alternatives that may ultimately prove to be technically or administratively



infeasible to implement shall be eliminated from further consideration;

d. Relative Cost. Alternatives that offer technical and administrative applicability and implementability similar to that of other alternatives but at grossly higher construction, operation, and maintenance costs shall be identified and eliminated if lower-cost alternatives are available that can meet the preliminary RECAP standards; and

e. Regulatory Requirements. Remedial actions must meet all state and federal Applicable, Relevant, and Appropriate Requirements (ARARs) for the location or for specific remedies, unless the requirements of LAC 33:VI.511.A.3 are met.

3. Performance of Treatability Studies. Treatability studies may be conducted to:

a. generate the critical performance and cost data needed to evaluate and select remedial alternatives;

b. provide quantitative data for use in determining whether an alternative can achieve the preliminary RECAP standards; or

c. determine whether additional more detailed treatability testing is required.

4. Evaluation of the Alternatives. Analysis of the remedial alternatives shall consist of a detailed assessment of the individual alternatives using the evaluation criteria described below, followed by a comparison of the relative performance of each alternative. Individual alternatives shall be evaluated using the following criteria:

a. ability of the alternative to achieve the preliminary RECAP standards and other applicable requirements;

b. long-term effectiveness and permanence of the alternative, considering the magnitude of residual risk after implementation of the remedy, adequacy and reliability of engineering or institutional controls, and degree to which treatment is irreversible;

c. reduction of toxicity, mobility, or volume through treatment, considering:

i. the treatment process used and materials treated;

ii. the amount of hazardous materials destroyed or treated;

iii. the degree of expected reductions in toxicity, mobility, and volume; and

iv. the type and quantity of residuals remaining after treatment;

d. short-term effectiveness, considering:

i. the protection of community and workers during implementation of the alternative;

ii. the environmental impacts during implementation of the alternative; and

iii. the time required until preliminary RECAP standards are achieved;

e. implementability, considering:

i. the ability to construct and operate the technology at the site;

ii. the reliability of the technology;

iii. the cost of undertaking additional remedial actions (if necessary);

iv. the ability to monitor effectiveness of the remedy;

v. the ability to obtain approvals from other agencies;

vi. coordination with other agencies;

vii. the availability of off-site treatment, storage, and disposal services, and capacity for disposal of residuals;

viii. the availability of necessary equipment and specialists, and services and materials; and

ix. the availability of prospective technologies;

f. cost effectiveness, considering capital costs and operating and maintenance costs; and

g. compliance with all state and federal ARARs.

5. Evaluation of the Impact of Remedial Alternatives on Natural Resources. If natural resources will be or could be injured by the release of hazardous substances, steps shall be taken by the department, or by PRPs as directed by the department, to ensure that state and federal trustees of the affected natural resources are notified. The department shall seek to coordinate necessary evaluations, investigations, and plans with such state and federal trustees. The department shall give priority to remedies that include mitigation of actual or potential threats to natural resources or restoration of those natural resources that have been injured.

6. Preparation of a Corrective Action Study Report. Following the completion of the corrective action study activities in this Subsection, a CAS report describing the results of all required CAS activities shall be prepared by the department, or by PRPs as directed by the department. Any CAS report prepared by PRPs shall be reviewed and approved by the department prior to the approval of the CAS. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2188 (November 1999).

#### **§511. Selection of the Final Remedy**

A. The final remedy shall:

1. protect human health and the environment;

2. comply with the RECAP standards determined in accordance with these regulations; and

3. comply with federal and state ARARs. An alternative remedy that does not meet an ARAR under federal environmental or state environmental or facility siting laws may be selected under the following circumstances:

a. the alternative is an interim measure and will become part of a total remedial action that will attain the ARAR;

b. compliance with the requirement will result in greater risk to human health and the environment than other alternatives;

c. compliance with the requirement is technically impracticable from an engineering perspective;

d. the alternative will attain a standard of performance that is equivalent to that required under the otherwise applicable standard, requirement, or limitation through use of another method or approach; or

e. for a remedial action funded by the department only, an alternative that attains the ARAR will not provide a balance between the need for protection of human health and the environment at the site and the availability of monies to

other sites that could present a threat to human health and the environment.

B. To select the final remedy for remedial actions other than removal actions, the department shall:

1. assess the remedial alternatives described in the CAS report, considering:

- a. the goals, objectives, and requirements of the act and these regulations;
- b. state and federal ARARs;
- c. the current and expected uses of the site property;
- d. the effectiveness of the remedy in significantly reducing the volume, toxicity, or mobility of the hazardous substances at the site;
- e. the effectiveness of the remedy in permanently reducing the volume, toxicity, or mobility of the hazardous substances at the site (permanent remedies shall be preferred);
- f. the reliability of the remedial alternatives, and the potential for future remedial costs if an alternative does not achieve the desired RECAP standard;
- g. the ability to monitor remedial performance;
- h. the cost effectiveness of a final remedy (cost effectiveness shall be considered only in choosing between alternatives that each adequately meet the requirements in this Section); and
- i. other factors determined appropriate by the department;

2. finalize the RECAP standards;

3. prepare a decision document stating the final remedy that includes:

- a. the final RECAP standards for the site and a brief discussion of how these were determined;
- b. a brief description of each remedial alternative evaluated;

c. the results of the evaluation of the alternatives and identification of the alternative selected by the department;

d. a brief discussion of the strengths and weaknesses of the selected alternative relative to the site, contaminated media, and contaminants;

e. a discussion of the results of the risk assessment if the preferred alternative would result in hazardous substances, contaminants, or pollutants remaining at the site in concentrations above the RECAP standards; and

f. an explanation of any waivers of state or federal ARARs;

4. present the preferred alternative to the public in a draft decision document in accordance with the public participation procedures described in LAC 33:VI.Chapter 8; and

5. consider the comments and information submitted during a public comment period if held in accordance with LAC 33:VI.Chapter 8 and revise the draft decision document as necessary.

C. The administrative authority shall issue a final decision document based upon Subsection B.1-4 of this Section.

D. If a removal action was performed at the site and the RECAP standards established by the department were achieved, then the removal action may be considered a final remedy. The department may determine that no further

action is required and issue a decision document stating that the removal action is the final remedy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2189 (November 1999).

### **§513. Design and Implementation of the Final Remedy**

A. Remedial Design. The department, or PRPs as directed by the department, shall develop a Remedial Design (RD) that will successfully implement the remedy defined by the decision document approved by the administrative authority for that site. Any remedial design prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' design.

B. Remedial Project Plan. The remedial project plan shall include all tasks, specifications, and subplans necessary for the implementation of the remedial design, including construction and operation of the final remedy. The remedial project plan shall be prepared by the department, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to implementation of the final remedy. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for the remedial project plan include:

1. a work plan, including:

- a. a general description of the work to be performed and a summary of the engineering design criteria;
- b. maps showing the general location of the site and the existing conditions of the facility;
- c. a copy of any required permits and approvals;
- d. detailed plans and procedural material specifications necessary for construction of the remedy;
- e. specific quality control tests to be performed to document the construction, including:
  - i. specifications for the testing or reference to specific testing methods;
  - ii. frequency of testing;
  - iii. acceptable results; and
  - iv. other documentation methods as required at the discretion of the department;
- f. start-up procedures and criteria to demonstrate the remedy is prepared for routine operation; and
- g. additional information to address ARARs;

2. a sampling and analysis plan;

3. a quality assurance/quality control plan;

4. a site-specific health and safety plan;

5. a project implementation schedule; and

6. other information required at the discretion of the department. The department may allow information to be incorporated by reference to avoid unnecessary duplication.

C. Design or Plan Modifications. Any and all changes in the remedial design or remedial project plan shall be approved by the department before implementation.

D. Implementation of the Remedy. All implementation activities shall be:

1. performed in compliance with the remedial design and the remedial project plan, as approved by the department; and

2. consistent with the intent of the act and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2190 (November 1999).

#### **§515. Revisions to the Final Remedy**

A. Information may become available during the remedial design process or during the implementation of the final remedy that requires a modification to the final remedy for the site.

B. If such information is discovered by a PRP, the PRP shall:

1. notify the department that a modification is necessary;
2. submit the relevant information to the department with an explanation of the proposed change; and
3. where appropriate and at the department's discretion, meet with the department to discuss the submitted information and the proposed modification to the final remedy.

C. If the department determines that a modification is necessary (whether proposed by a PRP or by the department) and if the modification changes the final remedy in the final decision document, then the administrative authority shall:

1. issue a revised final remedy decision document;
2. direct corresponding revision of the remedial design and remedial project plan; and
3. comply with the public notification requirements set forth in LAC 33:VI. Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999).

#### **§517. Inspections by the Department**

A. The department reserves the right to perform site and/or construction inspections at all sites where remedial work is being performed.

B. The department may require that any and all activities be halted at a site if the activity:

1. is not consistent with approved plans;
2. is not in compliance with accepted construction procedures;
3. is not in compliance with environmental regulations; or
4. endangers human health or the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2012 et seq., 2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999).

#### **§519. Completion of the Final Remedy**

A. Following completion of the implementation of the remedial design, the success of the remedial action in achieving the remedial goals shall be assessed by the department.

B. Departmental assessment may result in:

1. No Further Action (NFA). Remedial actions that result in the successful achievement of the remedial goals established by the department shall be judged completed, and the site shall be assigned NFA status; or

2. Post-Remedial Management. Sites not eligible for NFA status shall be placed under post-remedial management as described in LAC 33:VI.521. These sites shall include:

a. sites where leaving hazardous substances at the site with post-remedial management was part of the approved remedy; or

b. sites where the approved remedy was unsuccessful, the remedial goals approved by the department were not met and, in the judgement of the department, cannot feasibly be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999).

#### **§521. Post-Remedial Management**

A. General

1. Sites shall be placed under post-remedial management performed by the department, or by PRPs as directed by the department, where:

- a. hazardous substances remain on-site at levels above remedial goals; or
- b. post-remedial management is part of the approved remedy.

2. Management activities shall include the continued operation of long term remedies, the maintenance of the site and its facilities, and continued monitoring of site conditions.

B. Operation and Maintenance. An operation and maintenance (O and M) plan shall be prepared for all sites assigned post-remedial management because hazardous substances remain at the site at levels above remedial goals or where O and M is part of the approved remedy. O and M plans prepared by PRPs shall be submitted to the department for review and approval. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. O and M plans prepared by PRPs for a site where leaving hazardous substances at the site is part of the approved and completed remedy shall be submitted to the department for review and approval at least six months prior to completion of the remedy. Each O and M plan shall include, but not be limited to:

1. the name, telephone number, and address of the person responsible for the operation and maintenance of the site;
2. a description of all operation and maintenance tasks and specifications;
3. all design and construction plans;
4. any applicable equipment diagrams, specifications, and manufacturer's guidelines;
5. an operation and maintenance schedule;
6. a list of spare parts available at the site for repairs;
7. a site-specific health and safety plan; and
8. other information as requested by the department.

C. Monitoring. If required by the department, a monitoring plan shall be developed by the department, or by PRPs as directed by the department. A monitoring plan prepared by PRPs shall be submitted to the department for review and approval. The department shall provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. This plan shall include a description of provisions for monitoring of site conditions

during the post-remedial management period to prevent further endangerment to human health and the environment, including:

1. the location of monitoring points;
2. the environmental media to be monitored;
3. the hazardous substances to be monitored and the basis for their selection;
4. a monitoring schedule;
5. monitoring methodologies to be used (including sample collection procedures and laboratory methodology);
6. provisions for quality assurance and quality control;
7. data presentation and evaluation methods;
8. a contingency plan to address ineffective monitoring; and
9. provisions for reporting to the department on a semiannual basis including, at a minimum:
  - a. the findings from the previous six months;
  - b. an explanation of any anomalous or unexpected results;
  - c. an explanation of any results that are not in compliance with the RECAP standards; and
  - d. proposals for corrective action.

D. **Periodic Review By the Department.** The department shall review the status of sites assigned to post-remedial management a minimum of every five years to determine whether or not any hazardous substances remaining at the site are endangering human health and the environment. During this review, the department shall periodically assess, through site visits, review of O and M reporting, and review of monitoring reports, the adequacy of various aspects of the post-remedial management activities at the site. These aspects include, but are not limited to:

1. compliance with the O and M schedule;
2. determination of whether or not the implementation of the O and M plan is proceeding as designed to maintain the intended level of protection to human health and the environment;
3. compliance with monitoring data reporting requirements;
4. completion of any necessary repairs;
5. compliance with and effectiveness of institutional controls (if any were implemented as part of the remedy);
6. determination of whether or not any newly enacted laws or newly promulgated regulations are applicable to the site and require additional action; and
7. post-remedial management costs incurred.

E. **Discontinuation of Post-Remedial Management.** The department may discontinue post-remedial management activities based upon its periodic review, as described in Subsection D of this Section. Discontinuation of post-remedial management will result in a determination of no further action by the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2271 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999).

### **§523. Oversight of Potentially Responsible Parties by the Department**

A. All remedial actions and post-remedial management activities performed by PRPs shall be subject to oversight by the department or the department's authorized representative.

Nothing in this Section shall affect the responsibility or liability of any PRP.

B. The department's objective in oversight of PRP-conducted remedial actions is to verify that the work complies with:

1. the governing legal document or settlement agreement (e.g., cooperative agreement or judicial or administrative order);
2. any statement of work, project plan (work plan, sampling and analysis plan, quality assurance/quality control plan, health and safety plan), or other plan developed and approved for the remedial action;
3. generally accepted scientific and engineering methods; and
4. all ARARs, as appropriate.

C. The level of oversight provided by the department shall be:

1. determined by the department;
2. site-specific; and
3. dependent on the nature and complexity of the remedial action.

D. All costs incurred by the department in providing oversight of remedial actions performed by PRPs shall be fully recoverable by the department in accordance with LAC 33:VI.Chapter 6.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2271 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2192 (November 1999).

### **Chapter 6. Cost Recovery** **§601. Purpose and Scope**

A. This Chapter shall govern the recovery of remedial costs incurred on or after the effective date of these regulations. Nothing herein shall prevent the department from recovering remedial costs incurred prior to the effective date of these regulations.

B. As stated in R.S. 30:2271, all remedial costs incurred shall be borne by PRPs wherever possible.

C. The department may elect not to pursue cost recovery where, based on information gathered by the department, it reasonably has determined that:

1. no PRPs can be identified;
2. no identified PRP is financially viable;
3. the PRP identified is a parish, state or political subdivision of the state, or federal entity;
4. the department may be unable to meet its burden of proof on one or more elements of its case;
5. the time and expense of the department's effort to recover costs exceed the amount to be recovered;
6. a legal action, settlement, or agreement between the PRP(s) and the department or state precludes past, present, and/or future cost recovery; or
7. the department meets unforeseen legal, administrative, or programmatic constraints that preclude further attempts at recovering costs.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2192 (November 1999).

### **§603. Calculation and Invoicing of Remedial Costs**

A. Remedial costs shall be calculated to reflect the actual cost of remedial actions to the department, including but not limited to, all costs of investigation, remediation, enforcement, oversight, and cost recovery. Such costs shall be calculated as the sum of:

1. direct personnel costs—the total of the number of direct hours expended by all department employees with regard to a specific site multiplied by the employee's hourly rate at the time the expense was incurred;

2. fringe benefits—the total of all personnel fringe benefits based on the categories and their respective rates for hours expended by each employee at the site;

3. department's direct costs—the total of direct costs to the department, including without limitation, personnel, operating services, equipment, supplies, travel, sampling, and contractual charges; and

4. payments made by the department to its contractors—the total of all payments made by the department to its contractors, grantees, or agents for planning, management, direction, or performance of remedial and oversight actions for a specific site.

B. The department will invoice PRPs according to the cost recovery provisions defined in a legal agreement and/or R.S. 30:2271 et seq. and/or as determined necessary by the department.

C. The department may establish by rule an indirect rate and may recover indirect costs, such as office space, file storage space, utilities, insurance, equipment usage, administrative overhead, operating services, and other overhead costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999).

### **§605. Documentation of Remedial Costs**

A. The department shall document all remedial costs. This documentation shall be the basis for recovery of remedial costs.

B. The department shall compile and retain supporting documentation for costs for which it may seek reimbursement. This documentation may include, but is not limited to:

1. time and attendance records;

2. records of the cost of site-specific travel including, but not limited to, travel reimbursement forms, requisitions, invoices, or memoranda;

3. invoices from the purchase of supplies, services, or equipment for a specific site;

4. contractor invoices;

5. cooperative agreements or other legal action documents;

6. records of site-specific direct costs, such as laboratory sampling and analytical costs, equipment rentals, copying service, or other services; and

7. records reflecting the costs of bringing an enforcement action, including without limitation, staff time, equipment use, hearing records, expert assistance, and such other items as the department determines to be a cost of the action. Contractor quarterly reports or pre-award documents that may contain confidential information concerning contractor overhead and labor rates shall not be included.

C. Unless required for a longer period of time, documents shall be retained at the offices of the department for a period of at least three years from completion of the remedial action or the time that the department determines that no further action is required at a site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999).

### **§607. Determination of Remedial Costs; Demand to PRPs**

A. Timing. The department may at any time prepare a written determination of the cost of partial or complete remediation of a site. The department may revise its determination in writing at any time thereafter.

B. Demand to PRPs. The department may seek to recover its remedial costs using any of the means described in the act and these regulations.

#### **C. Treble Liability**

1. PRPs who fail to comply with demand letters, administrative orders, or court orders concerning the site without sufficient cause are potentially liable for three times the total remedial costs.

2. In the event the court finds any PRP liable for three times the value of the remedial costs allocated by the court to that PRP, this finding shall not be used to mitigate the allocated share of other PRPs also found liable for the site.

#### **D. Review of Cost Documentation**

1. The department shall provide an opportunity for review of the cost documentation for a particular site to any person who has received a demand for payment of remedial costs from the department. The department may accept written factual information to support any dispute concerning the calculation of the demand. The department may take such further action as it determines necessary regarding review.

2. Neither the department's cost determination nor any administrative review in accordance with Subsection D.1 of this Section shall be considered to be an adjudication in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999).

## **Chapter 7. Settlement and Negotiations**

### **§701. Purpose**

A. The goal of the department in all settlement negotiations with PRPs is to obtain complete site remedial actions by the PRPs and/or to collect 100 percent of the department's costs for site remediation.

B. The liability of PRPs to the department is absolute and presumed in solido.

C. Where the department finds that PRP involvement will further the department's goals, the department may enter into negotiations with the PRPs, subject to the limitations and procedures set forth in this Chapter. With the concurrence of the attorney general where required by law, the department may settle or resolve, as deemed advantageous to the state, any suits, disputes, or claims for any penalty under the act or these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999).

### **§703. Cooperative Agreements**

A. Cooperative agreements may be used to reflect agreements by PRPs to conduct any remedial action at a site or to reimburse the department for remedial costs. This does not preclude the use of enforcement action, if necessary.

B. The department may enter into cooperative agreements with any person for the purpose of conducting any remedial action measures in accordance with these regulations.

C. The department may enter into a cooperative agreement with one or more PRPs as a result of negotiations.

D. Each cooperative agreement shall address the following provisions:

1. a statement of jurisdiction;
2. a description of parties bound;
3. a description of work to be performed or of costs to be paid and a schedule for such work or payment;
4. oversight by the department;
5. access;
6. reporting requirements;
7. project deliverables, including a schedule for submission and revisions;
8. project coordinators;
9. a requirement for certification upon completion of work;
10. reimbursement of remedial costs, if applicable;
11. force majeure;
12. retention of records;
13. notices and submissions;
14. effective date; and
15. appendices.

E. Each cooperative agreement may contain, but not be limited to, the following provisions:

1. indemnification of the department and insurance;
2. stipulated penalties;
3. covenants not to sue;
4. quality assurance/quality control and sampling and data analysis;
5. assurance of financial ability to complete work;
6. emergency response procedures;
7. dispute resolution procedures;
8. information to be provided to the department; and
9. public participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999).

### **§705. Negotiations**

A. Purpose. The department's goal in negotiating PRP participation in remedial actions and reimbursement of the costs incurred by the department is to obtain complete remediation by the PRPs and/or to collect 100 percent of the department's remedial costs.

B. Good Faith Proposal

1. Upon receipt of the demand letter in accordance with LAC 33:VI.405.B or at any other time, PRPs who wish to pay for the department to conduct a remedial action or

who wish to conduct the action themselves shall respond in writing within 60 days or such other time that the department may specify and make a good faith offer concerning the implementation of the remedial action or payment of the department's costs. The department will negotiate with PRPs only if the initial proposal from the PRPs constitutes a substantial portion of the remedial action or a good faith proposal. The department has sole discretion to determine whether to start negotiations after receipt of a proposal from PRPs.

2. In making its decision, the department shall weigh factors it deems appropriate, including the potential resource demands for conducting the negotiations against the likelihood of getting 100 percent of the department's costs or a complete remedial action.

3. The department may elect to negotiate for less than 100 percent when it deems that the circumstances of the case warrant such action.

4. When there are five or more PRPs interested in negotiating, the department may request that the PRPs select a representative to negotiate with the department.

C. Negotiations After Issuance of Administrative Orders. PRPs who have received unilateral administrative orders may negotiate with the department for dismissal of the administrative order upon execution of a cooperative agreement unless an emergency situation has been declared or the department determines that a stay of remedial actions or of enforcement will be detrimental to the public health, welfare, or the environment. The department has sole discretion in determining whether to enter into negotiations after issuance of a unilateral administrative order. Except by written determination of the department, no request for or conduct of negotiations in accordance with this Section shall serve to stay or modify the terms of any such unilateral administrative order.

D. Notice to Fewer Than All PRPs. Nothing in these regulations shall be construed to require the department to send a notification and a demand for information in accordance with R.S. 30:2274 or a demand for remedial action or costs in accordance with R.S. 30:2275 when the department determines that it is not feasible to make a demand on every PRP. PRPs who do not receive such notifications or demands remain subject to later notification letters, or demand letters in accordance with LAC 33:VI.403 and 405, unilateral administrative orders, or other enforcement actions. PRPs who did not receive a notification or a demand but who are interested in responding with a good faith offer may participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999).

### **§707. Contribution Protection**

A. Any responsible party that has resolved its liability to the department in an administrative or judicially approved settlement shall be considered to be a participating party within the meaning of R.S. 30:2276(G) and as defined in these regulations and shall not be liable for claims by any other parties regarding matters addressed in the settlement.

B. Settlement between the department and any party does not discharge any other PRPs unless the terms of the settlement documents so provide, but such settlement shall

reduce the potential in solido liability of the others by the amount of the settlement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2271 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999).

#### **§709. De Minimis Settlements**

A. If practicable and in the public interest, as determined by the administrative authority, the department may settle with any PRP whose waste contribution to a site is minimal in terms of amount and toxicity in comparison to other hazardous substances or hazardous wastes or hazardous waste constituents at the site.

B. The department may consider a de minimis settlement offer when it has sufficient information about all identified PRPs, including financial information, to determine each PRP's waste contribution to the site and information about the costs of remedial action at the site.

C. The goal of negotiations with de minimis parties is to achieve quick and standardized agreements through the expenditure of minimal enforcement resources and transaction costs. Where feasible the department may require de minimis parties to negotiate collectively at multi-party sites.

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve a cash payment to the department by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

E. In evaluating a de minimis settlement offer the department may consider any factors and information it deems appropriate, including:

1. amount of waste contributed;
2. toxicity of potential settling party's waste;
3. costs of litigation;
4. public interest considerations;
5. value to the department of a present sum certain;

and

6. nature and strength of the case against nonsettling PRPs.

F. De minimis agreements shall be entered into as cooperative agreements or judicial orders, in accordance with these regulations. Any de minimis settlement shall contain, in addition to other standard provisions, the following terms:

1. requirement that the settling party be responsible for a percentage of site remedial costs in excess of that amount the department and the party agree may be allocated to the settling party for purposes of settlement (premium payment);
2. reservation of natural resource damage recovery, except where expressly waived by the natural resource trustee(s); and
3. reopener clauses allowing the department to pursue the settling de minimis parties if information not known to the department at the time of settlement indicates that the

volume and/or toxicity criteria for settlement is no longer satisfied with respect to the settling party or parties.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2271 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999).

#### **§711. Mixed Funding**

A. PRP Lead Site. The department may provide funds from the Hazardous Waste Site Cleanup Fund, as defined in R.S. 30:2205, to a responsible party for the purpose of assisting with the cost of remediation incurred by the responsible party. This assistance may be provided through cooperative agreements in accordance with R.S. 30:2032.

B. Department Lead Site. The department may accept funds from PRPs for the purpose of assisting with the payment of remedial costs incurred by the department, regardless of when those costs are incurred. This assistance may be provided solely in the form of cash contributions, which may go to either the Hazardous Waste Site Cleanup Fund or to the Environmental Trust Fund, as defined in R.S. 30:2015, at the department's discretion.

C. Eligibility and Mixed Funding Criteria. The administrative authority shall make a determination whether a proposal is eligible for funding. The only circumstances under which mixed funding can be approved by the department are when the funding will achieve both:

1. substantially more expeditious or enhanced remediation than would otherwise occur; and
2. the prevention or mitigation of unfair economic hardship. In considering this criterion the department shall consider the extent to which mixed funding will either prevent or mitigate unfair economic hardship faced by the PRP, if the remedial action were to be implemented without public funding, or achieve greater fairness with respect to the payment of remedial costs between the PRP entering into a cooperative agreement with the department and any nonsettling PRPs.

D. Funding Decision. The department may hold informal discussions on mixed funding with PRPs for a particular site. If a responsible party is found to be eligible for mixed funding, the administrative authority shall make a determination regarding the amount of funding to be provided, if any. This shall be determined at the discretion of the administrative authority and is not subject to review. A determination of eligibility is not a funding commitment. Actual funding will depend on the availability of funds.

E. Remedial Costs. The department may recover the amount of public funding spent on remedial actions from the nonparticipating PRPs. For purposes of such cost recovery action, the amount in mixed funding attributed to the site shall be considered as remedial costs paid by the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999).

#### **§713. Availability of Facilitation/Mediation**

The department, at its sole discretion, will entertain PRP requests to participate in alternative dispute resolution procedures such as mediation, nonbinding arbitration, and facilitation at the PRP's expense. The department must agree

upon the selection of any facilitator or mediator engaged to conduct the dispute resolution procedure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999).

## **Chapter 8. Public Information and Participation**

### **§801. Public Information**

A. The department shall ensure that site-related information is available to the public by providing access to all public records and information obtained by the department unless such information has been designated confidential by the secretary, as authorized in R.S. 30:2030 and/or LAC 33:I.501.

B. As appropriate, the department, or PRPs as directed by the department, shall actively disseminate information to the public concerning site remedial activities. All information dissemination activities undertaken by PRPs shall be performed under the direction and approval of the department. Methods for disseminating site information include, but are not limited to, the methods listed in Subsection B.1-3 of this Section.

1. Information Repositories. The department may establish and maintain an information repository in a public location near the site. If a repository is established, PRPs shall provide the department with copies of all necessary documents.

2. Fact Sheets or Newsletters. The department, or PRPs as directed by the department, may draft and distribute fact sheets or newsletters concerning site activities. If directed by the department, PRPs shall provide for the drafting, printing, and distribution of the fact sheets or newsletters.

3. Informational Open Houses. The department may hold informational open houses to discuss site activities with interested citizens. If directed by the department, the PRPs shall assume all costs of these informational meetings and shall provide materials as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999).

### **§803. Public Participation**

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the department, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

1. For sites that have been declared abandoned in accordance with R.S. 30:2225, an opportunity for public comment shall be provided for any site closure plan in which the department proposes to treat, store, or dispose of hazardous wastes at the site.

a. Notice of the public comment period and any public hearing on the closure plan shall be placed in the newspaper of general circulation in the parish where the site is located. The contents and format of the notice shall follow guidelines established by the department.

b. Prior to the commencement of the public comment period, the department, or PRPs as directed by the department, shall place a copy of the site closure plan in a public location near the site.

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial investigation plan and selection of a site remedy. Written requests shall be mailed to Louisiana Department of Environmental Quality, Box 82178, Baton Rouge, LA 70884-2178.

a. Notice of the public comment period and public meeting should be placed in the newspaper of general circulation in the parish where the site is located. The contents and format of the notice shall follow guidelines established by the department.

b. Prior to any public comment period, the department, or PRPs as directed by the department, shall place a copy of the document being reviewed in a public location near the site.

B. The department shall, as appropriate, provide or direct PRPs to provide additional opportunities for public participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999).

James H. Brent, Ph.D.  
Assistant Secretary

9911#034

## **RULE**

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

Louisiana Environmental Regulatory Innovations Program  
(LERIP) (LAC 33:I.3701-3715)(OS032)

Editor's Note: Due to Reengineering at the Department of Environmental Quality effective July 1, 1999 the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the rule have not changed, with the exception of technical amendments to the proposed rule.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Office of the Secretary regulations, LAC 33:I.Chapter 37 (Log No. OS032).

The rule will establish the procedures for participation in the Louisiana Environmental Regulatory Innovations Program (LERIP), as well as an Excellence and Leadership Program. The rule contains application requirements,



department review conditions, a priority system for ranking demonstration projects, project amendment and renewal procedures, and project termination. Facility owners and operators, in conjunction with stakeholders, are encouraged to develop and implement effective pollution prevention and/or pollution reduction strategies to achieve levels below required regulation levels. R.S. 30:2566 requires the department to promulgate regulations for the administration of the Louisiana Environmental Regulatory Innovations Programs, including the Excellence and Leadership Program. The basis and rationale for this rule are to promulgate regulations to consider regulatory flexibility as an incentive to superior environmental performance.

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.

### Title 33

## ENVIRONMENTAL QUALITY

### Part I. Office of the Secretary

#### Subpart 1. Departmental Administrative Procedures

#### Chapter 37. Regulatory Innovations Programs

##### §3701. Purpose

This Chapter establishes procedures for voluntary participation in the Louisiana Environmental Regulatory Innovations Programs (LERIP) as provided by R.S. 30:2561 et seq. Its purpose is to provide regulatory flexibility consistent with federal guidelines in exchange for superior environmental performance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2561 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999).

##### §3703. Definitions

*Administrative Authority*—the secretary of the Department of Environmental Quality or the secretary's designee.

*Demonstration Project (DP)*—a project containing all the elements required in LAC 33:I.3705, intended to be implemented in exchange for regulatory flexibility.

*Final Project Agreement (FPA)*—the final document agreed upon between the secretary and a program participant that specifically states the terms and duration of the proposed project. The final project agreement is an enforceable document.

*Regulatory Flexibility*—a qualified participant in a regulatory innovations program may be exempted by the secretary from regulations promulgated by the department under this chapter consistent with federal law and regulation.

*Stakeholders*—citizens in the communities near the project site, facility workers, government representatives, industry representatives, environmental groups, or other public interest groups with representatives in Louisiana and Louisiana citizens, or other similar interests.

*Superior Environmental Performance*—

1. a significant decrease of pollution to levels lower than the levels currently being achieved by the subject facility under applicable law or regulation, where these lower levels are better than required by applicable law and regulation; or

2. improved social or economic benefits to the state, as determined by the secretary while achieving protection to the environment equal to the protection currently being achieved by the subject facility under applicable law and regulation, provided that all requirements under current applicable law and regulation are being achieved by the facility.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2561 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999).

##### §3705. Application for a Demonstration Project

A. An application for a demonstration project (DP) shall be submitted to the administrative authority. The application shall, at a minimum, include:

1. a narrative summary of the DP, including the specific statutes or rules for which an exemption is being sought;

2. a detailed explanation including a demonstration that the DP:

a. is at least as protective of the environment and the public health as the method or standard prescribed by the statute or rule that would otherwise apply;

b. will provide superior environmental performance;

c. will not transfer pollution impacts into a product;

d. will identify, if applicable, any proposed transfer of pollutants between media;

e. will include verifiable measures of success for project goals;

f. will not increase or shift risk to citizens or communities;

g. is consistent with federal law and regulation, including any requirement for a federally approved, delegated, authorized, or implemented program or plan; and

h. reduces the time and money spent at the facility on paperwork and other administrative tasks that do not directly benefit the environment;

3. an implementation schedule that includes a proposal for monitoring, recordkeeping, and/or reporting, where appropriate, of environmental performance and compliance under the DP;

4. a plan to identify and contact stakeholders, to advise stakeholders of the facts and nature of the project, and to request stakeholder participation and review. Stakeholder participation and review shall occur during the development, consideration, and implementation stages of the DP. The plan shall also include notice to the employees of the facility to be covered by the proposed project and a description of efforts made or proposed to achieve local community support;

5. the time period for which the exemption is sought; and

6. any other information requested from the applicant by the administrative authority during the application period.

B. The application shall be signed by the applicant or its duly authorized agent and shall certify that all information is true, accurate, and complete to the best of that person's knowledge.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999).

### **§3707. Demonstration Project Priority System**

A. Priority will be given to projects after considering whether the technology:

1. will result in significant pollution prevention or source reduction, particularly in low income areas already burdened with pollution;
2. will reduce air emissions in a nonattainment area;
3. will maintain or improve coastal wetland environments;
4. will be transferable to other members of the regulated community; and
5. will allow the department, the applicant, and other state and local agencies to spend less time and resources over the long term to monitor and administer the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2198 (November 1999).

### **§3709. Review of Application for Demonstration Project**

A. Within 180 days after submittal of a complete application for a DP, the department will conduct a review and notify the applicant of its initial decision regarding acceptability of the proposed project.

B. The department will consider, among other factors, the applicant's compliance history and efforts made to involve the stakeholders and to achieve local community support.

C. If the department determines the DP to be unacceptable, it will provide written reasons for the determination.

D. A DP that has been determined to be unacceptable may be resubmitted in accordance with Subsection A of this Section provided all reasons for the unacceptable determination have been addressed.

E. The department will not approve any DP as a FPA if it requires prior approval by the USEPA, until the USEPA has formally approved all regulatory flexibility necessary for execution of the FPA. When an application for a DP includes regulatory flexibility that may affect a federal requirement or a state requirement that implements a federally approved, delegated, authorized, or implemented program or plan, the department shall submit a copy of the application to the USEPA for review and approval.

F. If the department determines the DP to be acceptable:

1. a public hearing will be held at a location near the proposed project to receive comments;
2. public comments will be received for 30 days after the hearing;
3. a response summary addressing the major issues raised during the comment period will be prepared by the department;
4. an applicant may be required to supplement or modify the application;
5. a recommendation will be made to the administrative authority to approve or deny the project; and
6. a FPA will be executed or a denial issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2198 (November 1999).

### **§3711. Public Notice**

A. An applicant whose DP has been approved shall publish notice of the FPA in the official journal of the parish governing authority where the project will be implemented. Notice under this Section shall, at a minimum, include:

1. a brief description of the FPA and of the business conducted at the facility;
2. the name and address of the applicant and, if different, the location of the facility for which regulatory flexibility is sought; and
3. the name, and a brief description of the regulatory relief that has been granted, address, and telephone number of a department contact person from whom interested persons may obtain further information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2198 (November 1999).

### **§3713. Amendment or Renewal**

A. An application for amendment or renewal of a FPA shall be filed in the same manner as an original application under this Chapter.

B. If amendment or renewal procedures have been initiated at least 120 days prior to the FPA expiration date, the existing FPA will remain in effect and will not expire until the administrative authority has made a final decision on the amendment or renewal.

C. The administrative authority shall determine whether a public hearing will be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2198 (November 1999).

### **§3715. Termination**

A. By the Recipient

1. A party to a FPA may terminate the FPA at any time by sending notice of termination to the administrative authority by certified mail.

2. The party terminating must be in compliance with all existing statutes or regulations at the time of termination.

B. By the Department

1. Noncompliance with the terms and conditions of a FPA or any provision of this Chapter may result in the FPA being voided, except that the recipient shall be given written notice of the noncompliance and provided an opportunity, not less than 30 days from the date the notice was mailed, to show cause why the FPA should not be voided. Procedures for requesting a show cause hearing before the Division of Administrative Law shall be included in the written notice.

2. In the event more stringent or more protective regulations become effective after execution of a FPA, the recipient shall amend or modify the FPA to provide environmental protection equal to the new regulation pursuant to department and EPA approval, or the FPA will be voided.

3. In the event a FPA becomes void, the administrative authority may specify an appropriate and reasonable transition period to allow the recipient to come into full

compliance with all existing statutory and regulatory requirements, including time to apply for any necessary agency permits, authorizations, or certifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2198 (November 1999).

Dale Givens  
Secretary

9911#036

## RULE

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

#### Requirements for Commercial Hazardous Waste Incinerators (LAC 33:V.529)(HW070)

Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice of Intent and the rule have not changed.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.529 (Log #HW070).

The regulation requires that applications for new permits and substantial modifications of existing permits for commercial hazardous waste incinerators comply with certain existing provisions of the Hazardous Waste Regulations (LAC 33:Part V), Air Quality Regulations (LAC 33:Part III), and Water Quality Regulations (LAC 33:Part IX). The basis and rationale for the rule are to respond to a petition for rulemaking requesting that rules be adopted to comply with R.S. 30:2011(D)(24). This rule clarifies which DEQ regulations apply to commercial hazardous waste incinerators.

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.

## Title 33

### ENVIRONMENTAL QUALITY

#### Part V. Hazardous Waste and Hazardous Materials

##### Subpart 1. Department of Environmental Quality—Hazardous Waste

##### Chapter 5. Permit Application Contents

##### Subchapter E. Specific Information Requirements

##### §529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 provides otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B or C of this Section.

\* \* \*

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

E. Commercial Hazardous Waste Incinerators. The administrative authority shall issue no new permit or substantial permit modification, as defined in LAC 33:I.1503, that authorizes the construction or operation of any commercial hazardous waste incineration facility, of any type, until the permit applicant complies with:

1. all applicable hazardous waste regulations in LAC 33:V, particularly as they pertain to:
  - a. design as required in LAC 33:V.Chapters 5 and 31;
  - b. siting as required in LAC 33:V.Chapters 5, 7, and 15;
  - c. construction as required in LAC 33:V.Chapters 7 and 31;
  - d. operation as required in LAC 33:V.Chapters 3, 5, 7, and 31;
  - e. emission limitations as required in LAC 33:V.Chapters 5 and 31; and
  - f. disposal methods as required in LAC 33:V.Chapters 22, 31, and 35;
2. all applicable air quality regulations in LAC 33:III; and
3. all applicable water quality regulations in LAC 33:IX.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2180 and 30:2011D.24(a).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2199 (November 1999).

James H. Brent, Ph.D.  
Assistant Secretary

9911#035

## RULE

### Office of the Governor Office of Elderly Affairs

#### GOEA Policy Manual Revision (LAC 4:VII.Chapter 11)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) hereby amends the GOEA Policy Manual effective November 20, 1999. The purpose of the proposed rule change is to update existing policies governing the Office of Elderly Affairs. This rule complies with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, R.S. 49:2010.4, R.S. 40:2802(D), Public Law 89-73—the Older Americans Act (OAA) of 1965 as amended, and 45 CFR 1321.

## Title 4

### ADMINISTRATION

#### Part VII. Governor's Office

##### Chapter 11. Elderly Affairs

##### Subchapter A. State Agency on Aging

##### §1101. Office of Elderly Affairs

- A. Authority, Organization and Purpose

1. Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950 (R.S. 46:931 et seq.) provides for the establishment and administration of the Office of Elderly Affairs (GOEA) within the Office of the Governor.

2. Executive Order MJF 99-14 established and provided for the operation of the Office of Community Programs to consolidate the following agencies and/or divisions within the Office of the Governor that provide services for the citizens and local governments of the state of Louisiana:

- a. the Office of Elderly Affairs (R.S. 46:931, et seq.);
- b. the Office of Disability Affairs (R.S. 46:2581 et seq.);
- c. the Office of Indian Affairs (R.S. 46:2301, et seq.);
- d. the Office of Municipal Affairs;
- e. the Louisiana Interagency Coordinating Council for Child Net [R.S. 17:1979 and 36:4(R)];
- f. the Office of Rural Development (R.S. 3:314, et seq.);
- g. the Louisiana Abstinence Education Project (Executive Order No. MJF 98-11, as amended by Executive Order No. MJF 99-13);
- h. the Louisiana State Troops to Teachers Placement Assistance Program (Memorandum of Agreement dated February 2, 1995);
- i. the Office of Urban Affairs and Development (Executive Order No. MJF 96-47); and
- j. the Office of Women's Services (R.S. 46:2521, et seq.).

3. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole State agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also administers several statewide programs including the Long Term Care Assistance Program, the Adult Protective Services Program for the Elderly and the Long Term Care Ombudsman Program.

#### B. Powers and Responsibilities

1. GOEA has the following powers and duties under state law:

- a. to administer the Older Americans Act and related programs;
- b. to collect facts and statistics and make special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment or other conditions affecting the welfare of the aged;
- c. to keep abreast of the latest developments in aging throughout the nation and to interpret such findings to the public;
- d. to provide for a mutual exchange of ideas and information on the national, state, and local levels;
- e. to conduct hearings and to subpoena witnesses;
- f. to make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state;
- g. to coordinate the services of all agencies in the state serving the aging and require reports from such state agencies and institutions including carrying out the provisions of R.S. 46:935;

h. to adopt and promulgate rules and regulations deemed necessary to implement the provisions of the law in accordance with the Administrative Procedure Act;

i. to exercise the functions of the state relative to nutrition programs for the elderly and handicapped citizens of Louisiana;

j. to perform the functions of the state which are designed to meet the social and community needs of Louisiana residents sixty years of age or older, including but not limited to the provision of such comprehensive social programs as homemaker services, home repair and maintenance services, employment and training services, recreational and transportation services, counseling, information and referral services, protective services under R.S. 14:403.2, and health related outreach; but excluding the transportation program for the elderly administered by the Department of Transportation and Development under Section 16(b)(2) of the Federal Mass Transportation Act of 1964 as amended and other such programs and services assigned to departments of state government as provided in Title 36 of the Louisiana Revised Statutes;

k. to administer the Louisiana Senior Citizens Trust Fund;

l. to administer the Long Term Care Assistance Program;

m. to operate the Office of the State Long Term Care Ombudsman;

n. to serve as the "Adult Protection Agency" for any individual sixty years of age and over in need of adult protective services as provided in R.S. 14:403.2(E).

o. to administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Social Services or the Department of Health and Hospitals, on August 15, 1995, and to distribute those funds in accordance with and consistent with R.S. 46:936;

p. to approve recommendations from any parish voluntary council on aging prior to the creation of a new state-funded senior center in the state, as provided in §1233 of this Manual; and

q. to provide meeting space and staff support for the Executive Board on Aging [(R.S. 46:934(G))].

#### 2. Strategic Planning

a. In accordance with R.S. 39:31, GOEA shall engage in strategic planning and produce a strategic plan to guide ongoing and proposed activities for five years, to be updated at least every three years. A schedule will be provided by the Commissioner of Administration with guidance for the timely preparation, revision and submission of strategic plans.

b. Content of the Strategic Plan:

i. mission statements for each program funded through GOEA;

ii. goals that reflect the expected results the agency plans to achieve on behalf of the elderly;

iii. objectives that support each goal;

iv. strategies that GOEA will use to achieve its objectives;

v. measurable performance indicators for each objective, including at a minimum, indicators of input, output, outcome, and efficiency;

vi. statements identifying the principal clients and users of each program; and

vii. potential external factors beyond the control of GOEA that could affect the achievement of goals and objectives.

c. Each goal shall have the statutory requirement of authority.

d. Program evaluations shall be used to develop objectives and strategies.

e. GOEA shall maintain documentation as to the reliability and appropriateness of each performance indicator and the method used to verify the performance indicators. GOEA shall also indicate how each performance indicator will be used in GOEA's management decisions.

f. The strategic plan shall be used in the construction of the annual operational plan for budget development purposes. Information taken from the strategic plan or operational plan for inclusion in the executive budget or supporting documents shall be included at the discretion of the Commissioner of Administration.

### C. Functions of the Governor's Office of Elderly Affairs

#### 1. Administrative Functions:

a. to develop and follow written policies in carrying out its functions under state and federal laws and regulations;

b. to develop and enforce policies governing all aspects of programs operating under the Older Americans Act, whether operated directly or under contract;

c. to manage and control funds received from federal and state sources;

d. to recruit, train and supervise qualified staff to perform responsibilities; and

e. to procure necessary supplies, equipment and services.

#### 2. Advocacy Functions:

a. to review, monitor, evaluate and comment on all Federal, State and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which GOEA considers to be appropriate;

b. to provide technical assistance and training to agencies, organizations, associations or individuals representing older persons;

c. to review and comment, upon request, on applications to state and federal agencies for assistance in meeting the needs of the elderly;

d. to consolidate and coordinate multiple state and federal resources to facilitate the development of comprehensive community-based services for the elderly; and

e. to develop financial resources for programs on aging beyond those allocated under the Older Americans Act.

#### 3. Service Systems Development Functions:

a. to develop and administer the state plan on aging;

b. to be primarily responsible for the planning, policy development, administration, coordination, priority setting and evaluation of all State activities related to the objectives of the Older Americans Act;

c. to divide the State into distinct planning and service areas, in accordance with guidelines issued by the Administration on Aging;

d. to designate for each planning and service area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging (AAA) for such area;

e. in consultation with area agencies on aging, in accordance with guidelines issued by the Administration on Aging, and using the best available data, to develop and publish, for review and comment, a formula for distribution within the State of funds received under Title III of the Older Americans act that takes into account:

i. the geographical distribution of older individuals in the State; and

ii. the distribution among planning and service areas of older individuals with greatest economic need and/or greatest social need, with particular attention to low-income minority older individuals;

f. to submit its formula developed under §1105.C.6 to the Administration on Aging for approval; and

g. to establish and follow appropriate procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to:

i. revoke the designation of the AAA under §1111.C.3.d;

ii. designate an additional planning and service area in the State;

iii. divide the State into different planning and service areas; or

iv. otherwise affect the boundaries of the planning and service areas in the State.

### D. Governor's Office of Elderly Affairs Administration

#### 1. Staffing

a. GOEA shall be administered by an executive director, who shall be recommended by the Louisiana Executive Board on Aging to the governor to serve at his pleasure, subject to confirmation by the Senate. The executive director shall be qualified by education and experience to assume leadership of the State Agency on Aging.

b. The GOEA executive director shall employ an adequate number of qualified staff to carry out the duties and functions of the State agency as provided by law.

c. GOEA shall have within the State agency an Office of the State Long-Term Care Ombudsman, with a full-time State ombudsman and such other staff as are appropriate.

d. GOEA shall provide an individual who shall be known as a State legal services developer, and other personnel, sufficient to ensure:

i. state leadership in securing and maintaining legal rights of older individuals;

ii. state capacity for coordinating the provision of legal assistance;

iii. state capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate; and

iv. state capacity to promote financial management services for older individuals at risk of conservatorship.

e. GOEA may contract with other parties for the performance of certain functions and responsibilities.

f. Subject to the requirements of the Louisiana Department of Civil Service:

i. GOEA will give preference to persons aged sixty or over for any staff positions (full-time or part-time) for which such persons qualify; and

ii. GOEA shall give special consideration to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging for any staff positions (full time or part time) for which such individuals qualify.

g. All GOEA personnel matters shall be governed by state law and the rules of the Louisiana Department of Civil Service.

## 2. Policies

a. GOEA shall develop and enforce written policies in carrying out its functions under state and federal laws and regulations. These policies shall be developed in consultation with other appropriate parties within the state. GOEA shall keep its policies current, and revise them as necessary in accordance with the Louisiana Administrative Procedure Act.

b. GOEA shall:

i. draft proposed policies and/or policy changes;

ii. submit proposed policies and/or policy changes to the Louisiana Executive Board on Aging for review and comment;

iii. publish proposed policies/policy changes in the Louisiana Register in order to solicit public input;

iv. conduct public hearings to obtain oral and/or written comments from interested parties; and

v. consider all comments in establishing final policies.

c. GOEA shall take into account, in connection with matters of general policy arising in the development and administration of the State plan, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan.

d. GOEA shall establish and maintain a manual to which shall include current policies promulgated by the State agency in the Louisiana Administrative Code. GOEA shall make copies of said manual available to all GOEA contractors and subcontractors. Copies may be provided at cost.

## 3. Reports

a. GOEA shall submit to the U.S. Administration on Aging, the governor, and the legislature any reports that they require.

b. GOEA shall establish and maintain administrative records and reports for its total operation to satisfy legal requirements and for use as a management tool.

c. Program records and reports shall be reviewed periodically by appropriate staff, to evaluate the records' adequacy and continued usefulness.

## 4. Confidentiality and Disclosure of State Agency Information

a. The Governor's Office of Elderly Affairs shall ensure that any agency providing services with funds administered by GOEA shall not disclose any information about or obtained from an older person, in a form which identifies the person, without his informed, written consent or that of his authorized representative.

b. All information related to problems identified in the process of monitoring and evaluating area agencies on aging and/or service providers shall be considered confidential information until such time as problems are resolved or final action is taken in accordance with GOEA policy. Such information may be disclosed to persons or organizations outside GOEA only if authorized by the executive director.

c. In the conduct of monitoring the ombudsman program, access to files, minus the identity of any complainant or resident of a long term care facility, shall be available only to the executive director of the Office of Elderly Affairs and one other senior manager of the Office of Elderly Affairs designated by the executive director for this purpose. The confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in Section 307(a)(12) of the Older Americans Act shall be strictly observed.

d. Subject to the confidentiality requirements of this paragraph, the GOEA executive director will make available at reasonable times and places to all interested parties information and documents developed or received by GOEA in carrying out its responsibilities.

e. In administering the Elderly Protective Services Program, all information in case records regarding elderly victims of abuse, neglect and exploitation shall be confidential as outlined in R.S. 14:403.2(E)(8).

## 5. Program Monitoring

a. GOEA shall monitor the performance of all programs and activities initiated under the Older Americans Act for quality and effectiveness in order to:

i. identify performance problems as a basis for determining an area agency's need for technical assistance and training;

ii. measure an area agency's progress toward developing a comprehensive and coordinated service delivery system in the planning and service area (PSA), and to guide the GOEA in providing resources and technical support to enhance the development of such systems;

iii. to ensure compliance with applicable federal and state laws, regulations and other requirements; and

iv. to ensure cost-effective use of available resources for the elderly.

b. Performance Indicators:

i. extent to which proposed service output (as specified in the area plan) is being provided, including:

(a). number of persons served, by service;

(b). units of service provided; and

(c). expenditures by source and service;

ii. extent to which each objective, and tasks related thereto, were completed as compared to the area plan;

iii. extent to which AAA responsibilities and requirements are being carried out;

iv. extent to which required services are being provided;

v. extent to which federal and state laws, regulations and other requirements are being followed; and

vi. extent to which the AAA is fostering the development of a comprehensive and coordinated service delivery system in the PSA, including:

(a). encouraging the development by other agencies of access services, community services, in-home services, and services to residents of care providing facilities, beyond those funded by the AAA; and

(b). providing for service management mechanisms which link clients with appropriate services and permit ease of movement by clients from one type of care and provider to another, as necessary.

c. Monitoring Procedures:

i. review AAA program and fiscal reports relative to the performance indicators, and for the purposes stated in this paragraph;

ii. conduct on-site performance evaluations of each AAA;

iii. share the results of all monitoring activities with the AAA governing body and director along with:

(a). recommendations for correcting problems; and

(b). remedial actions the State agency will take to assist the AAA and actions which must be taken by the AAA, including time frame for completion of such actions.

6. Program Evaluation

a. Program evaluation is designed to measure the extent to which the operation of programs resulted in the lessening of need for service for older persons. It is intended to support decision-making by the state and area agencies in the areas of resource allocation to services and program design, by showing which service delivery models are effective and result in program outcomes which are consistent with the goals of the Older Americans Act.

b. GOEA may carry out its evaluation responsibilities through or in consultation with institutions of higher learning, or other organizations with demonstrated competence in the field of evaluation research. Priority will be given to the evaluation of new programs and services as a basis for modification, expansion or termination.

c. Termination or suspension of the area plan, withholding funds, or other punitive actions may be effected by GOEA if the AAA fails to take actions and correct problems specified by GOEA.

7. Resource Development

a. GOEA shall identify resources potentially available for services for the aging at the federal and state levels, and from both public and private sources.

b. GOEA shall prepare applications, or facilitate such preparation on the part of AAAs or others, to secure identified funds.

c. GOEA shall provide information for use in justifying the allocation of funds for programs on aging, by such sources.

8. Coordination

a. Because state and federal funds administered by GOEA support only a small fraction of services available for the aging, and since one of the primary purposes of GOEA is to foster coordination among the many disparate programs for the elderly, the following activities shall be carried out:

i. identification of programs administered at the national and state level which impact on the well-being of older persons;

ii. establishment and use of common service nomenclatures to facilitate interagency communication and analysis;

iii. collection and analysis of information about the types of services allowable and actually provided, eligible/actual clientele, location of service providers/recipients, sources and amounts of expenditures by service;

iv. participation in joint planning and program design efforts at the state level for the purpose of:

(a). sharing of facilities and equipment (e.g., school buildings, community centers, transportation vehicles, etc.);

(b). centralizing functions common to several delivery programs for the aging (e.g., case management, information and referral, long term care ombudsman activities, etc.);

(c). collocating services in support of AAA focal point development;

(d). developing consensus among as many agencies as possible on a continuum of needed services, the geographic locations for such services, and assigning service development and delivery responsibilities among agencies; and

(e). entering into cooperative written agreements with the Louisiana Department of Health and Hospitals for the administration of the Adult Protective Services Program pursuant to R.S. 14:403.2, and with agencies administering Title XIX and Title XX of the Social Security Act, state transportation agencies, foundations, United Way agencies, and other private organizations for the purpose of carrying out these activities, and supplying copies of these interagency agreements to area agencies.

b. To carry out its responsibility to develop a comprehensive and coordinated service delivery system, GOEA shall make special efforts to coordinate with agencies administering the following programs:

i. the Job Training Partnership Act;

ii. Title II of the Domestic Volunteer Service Act of 1973;

iii. Titles XVI, XVIII, XIX, and XX of the Social Security Act;

iv. Sections 231 and 232 of the National Housing Act;

v. The United States Housing Act of 1937;

vi. Section 202 of the Housing Act of 1959;

vii. Title I of the Housing and Community Development Act of 1974;

viii. Title I of the Higher Education Act of 1965 and the Adult Education Act;

ix. Sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964;

x. the Public Health Service Act including block grants under Title XIX of such Act;

xi. the Low-Income Home Energy Assistance Act of 1981;

xii. Part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons;

- xiii. the Community Services Block Grant Act;
- xiv. demographic statistics and analysis programs conducted by the Bureau of the Census under Title 13, United States Code;
- xv. the Rehabilitation Act of 1973;
- xvi. the Developmental Disabilities and Bill of Rights Act; and
- xvii. the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750-3766(b)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2199 (November 1999).

### **§1103. The Louisiana Executive Board on Aging**

#### **A. Composition, Appointment and Tenure**

1. The Louisiana Executive Board on Aging, hereafter referred to as "the board," shall consist of fifteen members appointed as follows:

- a. the President of the Senate shall appoint five members, one from each of the five districts of the Public Service Commission;
- b. the Speaker of the House shall appoint five members of Representatives, one from each of the five districts of the Public Service Commission; and
- c. the governor shall appoint five members, one from each of the five districts of the Public Service Commission. Each appointment by the governor shall be submitted to the Senate for confirmation.

#### **2. Qualifications**

a. Members of the board shall have a recognized interest in and knowledge of the problems of aging. None of the members of the board shall be elected officials or paid employees of the state of Louisiana. Preference shall be given to persons sixty years of age and older.

b. A person is not eligible for appointment to the board if the person or the person's spouse either:

- i. is employed by a business entity or other organization regulated by or receiving funds from GOEA; or
- ii. owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from GOEA.

#### **3. Nominations and Appointments**

a. Nominations for the board shall be solicited from:

- i. the Louisiana Association of Councils on Aging, the Louisiana State Medical Society;
- ii. the Louisiana State Bar Association;
- iii. the National Association of Social Workers - Louisiana Chapter;
- iv. the American Association of Retired Persons;
- v. the Louisiana Association of Business and Industry;
- vi. the AFL-CIO;
- vii. the Louisiana Geriatric Education Center;
- viii. the Louisiana Interchurch Conference; and
- ix. other entities as appropriate.

b. Appointments shall be made from the list of names submitted in accordance with §1111.A.3.

#### **4. Terms of Office**

a. The terms of office of members of the board shall be five years except that the appointing authority shall appoint the original members as follows:

- i. five members for a term of one year;
- ii. five members for a term of two years; and
- iii. five members for a term of three years.

b. Vacancies shall be filled by appointment by the governor only for the remainder of the unexpired terms.

#### **B. Functions of the Louisiana Executive Board on Aging**

1. To advise and report to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly in Louisiana.

2. To advise the GOEA executive director on matters of policy and on all rules and regulations promulgated by the office.

3. To review and recommend the revocation of the charter of any parish voluntary council on aging for noncompliance with law, policies and/or regulations.

#### **C. Organization of the Board**

1. The board shall meet and organize immediately after appointment of the members and shall elect from its membership a slate of officers other than chairperson, whom the governor shall appoint. The board shall elect any officers, other than the chairperson, it deems necessary. The duties of such officers shall be those customarily performed by such officers.

2. The board shall meet at least once per quarter of the fiscal year, and as often thereafter as deemed necessary by the chairperson. A majority of members of the board shall constitute a quorum.

3. The board shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations.

#### **D. Duties and Responsibilities**

1. The board shall adopt rules governing the functions of the Governor's Office of Elderly Affairs (GOEA), including rules that prescribe the policies and procedures followed by the board and GOEA in the administration of its programs, all in accordance with the Administrative Procedure Act.

2. The board shall review and make recommendations to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly of the state.

3. The board shall approve matters of policy and all rules and regulations promulgated by the board or GOEA which pertain to elderly affairs and voluntary parish councils on aging.

4. The board shall prepare and submit an annual report to the legislature and to the governor sixty days prior to the legislative session.

5. The board by rule or its order may delegate any portion of its rights, powers, and duties to the executive director of the office.

6. The board may recommend discharge of the GOEA executive director.



## E. Compensation

1. Members shall serve without salary, but shall be reimbursed at the established per diem rate for attendance at board and committee meetings.

2. Members shall be reimbursed for actual travel and other expenses incurred while in the performance of their duties in accordance with the division of administration regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, R.S. 46:935 and OAA Sections 305(a)(1) and 307(a)(11).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2204 (November 1999).

### §1105. State Plan on Aging

A. Definition. The state plan on aging is the document submitted to the Administration on Aging to obtain the State's allotment of federal funds allocated under the Older Americans Act of 1965, as amended. It identifies the actions which the Governor's Office of Elderly Affairs (GOEA) will take in carrying out federal and state responsibilities. GOEA shall not make expenditures under a new plan or amendment requiring approval until it is approved.

#### B. Content of the State Plan:

1. identification by the State of the sole State agency that has been designated to develop and administer the plan;

2. statewide program objectives to implement the requirements under Title III and Title VII of the Older Americans Act and any objectives established by the Administration on Aging through the rulemaking process;

3. a resource allocation plan indicating the proposed use of all Title III funds administered by GOEA, and the distribution of Title III funds to each planning and service area;

4. identification of geographic boundaries of each planning and service area and of area agencies designated for each planning and service area;

5. provision of prior Federal fiscal year information related to low income minority and rural older individuals as required by Section 307 of the Older Americans Act; and

6. each of the provisions and assurances required in Sections 305 and 307 of the Older Americans Act, and provisions that the State meets the requirements under 45 CFR Part 1321.

#### C. Development and Amendment of the State Plan

1. The state plan may be developed for a two-, three-, or four-year period, determined by the State agency, with such annual updates and/or amendments as are necessary. GOEA shall use its own judgement as to the format to use for the plan, and how to collect information for the plan. The plan's resource allocation, including allotments to area agencies, shall be prepared annually and as available allotments change.

2. In the process of developing the state plan, GOEA shall reevaluate the configuration of planning and service areas (PSAs) in the state. Applications for PSA designation will be accepted in accordance with §1107.A.2 of this manual at that time.

3. GOEA shall amend the state plan whenever necessary to reflect:

- a. new or revised Federal statutes or regulations;

- b. a material change in any law, organization, policy or State agency operation; or

- c. information required annually by the Older Americans Act.

4. GOEA shall promulgate the state plan and all amendments in the Louisiana Administrative Code in accordance with the Administrative Procedure Act.

5. GOEA shall submit the state plan and all amendments requiring approval to the Administration on Aging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 307, OAA Section 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2205 (November 1999).

### §1107. Planning and Service Area Designation

#### A. General Rules

1. In accordance with Section 305 of the Older Americans Act (the Act), GOEA shall divide the State into distinct planning and service areas (PSAs) after considering the geographical distribution of individuals aged sixty and older in the State; the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance; the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas; the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas; the distribution of older Indians residing in such areas; the distribution of resources available to provide such services or centers; the boundaries of existing areas within the State that were drawn for the planning or administration of supportive service programs; the location of units of general purpose local government within the State; and any other relevant factors.

2. Starting with the state plan on aging beginning October 1, 2002, GOEA shall accept applications for PSA designation received from eligible applicants on or before November 1 of the year immediately preceding the final year of the state plan period. Any designation so approved shall become effective on the first day of the next area plan and shall remain in effect throughout the duration of the approved area plan.

3. GOEA may include in any planning and service area such additional areas adjacent to the unit of general purpose local government, region, metropolitan area, or Indian reservation so designated as GOEA determines to be necessary for, and will enhance the effective administration of the programs authorized by Title III of the Older Americans Act.

4. GOEA may include the area covered by the appropriate economic development district involved in any planning and service area designated and may include all portions of an Indian reservation within a single planning and service area.

B. Eligible Applicants. The governing body of any unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation may apply for its geographical area of jurisdiction to be a designated planning and service area.

### C. Application Procedure for PSA Designation

1. Eligible applicants requesting PSA designation shall submit applications based upon a uniform format prescribed by GOEA. Each such application shall include:

a. a signed resolution by the governing body of the applicant organization authorizing the request for designation of the unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation as a planning and service area;

b. a narrative and statistical description of:

i. the number of individuals aged sixty and older in the proposed PSA;

ii. the number of older individuals who have the greatest economic need (including low-income minority individuals) residing in the proposed PSA;

iii. the number of older individuals who have the greatest social need (including low-income minority individuals) residing in the proposed PSA;

iv. the number of older individuals who are Indians residing in the proposed PSA;

c. the incidence of need for supportive services, nutrition services, multipurpose senior centers, and legal assistance in the proposed PSA;

d. the distribution of resources available to provide such services or centers in the proposed PSA;

e. the boundaries of existing areas within the proposed PSA drawn for the planning or administration of supportive and/or nutrition services programs;

f. the location of units of general purpose local government within the proposed PSA; and

g. a list of multipurpose senior centers and agencies providing supportive and/or nutrition services in the proposed PSA including services supported by Title III of the Older Americans Act.

2. If the proposed PSA's boundaries are either a combination or subdivision of existing planning and service areas, the application shall address the basis of need for the merger or separation.

3. Applications from units of general purpose local government shall include a statement of whether the unit desires to exercise the right to first refusal of an area agency on aging designation. If the unit chooses not to exercise this right, the application shall include a statement of preference for another agency or organization to be the designated area agency on aging for the proposed PSA.

4. Applications for PSA designation shall be signed by the chief elected official representing the unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation.

### D. Criteria for Approval of PSA Designation Applications

1. The application must be received by GOEA within the time frame prescribed in §1107.A.2.

2. The application must be completed, including all required documentation and signatures. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.

3. The application must clearly demonstrate that the designation of the proposed PSA is necessary for, and will

enhance, the effective administration of the programs authorized by Title III of the Older Americans Act.

### E. Procedure for Due Process to Affected Parties

1. GOEA shall approve or disapprove any application received under §1107.C.1.

2. Any applicant under §1107.B whose application for designation as a PSA is denied by GOEA may appeal the denial under the procedures specified in LAC 4:VII.1269.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:932.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2205 (November 1999).

### §1109. Area Agency on Aging Designation

#### A. General Rules

1. The Governor's Office of Elderly Affairs (GOEA) shall designate a public or private nonprofit agency or organization as the area agency on aging (AAA) for each planning and service area (PSA) after consideration of the views offered by the unit or units of general purpose local government in each such PSA.

2. GOEA shall not designate any regional or local office of the State as an AAA.

3. Whenever GOEA designates a new AAA, GOEA shall give the right of first refusal to a unit of general purpose local government if such unit can meet the requirements of Sec. 305 (c) of the Older Americans Act and the boundaries of such a unit and the boundaries of the PSA are reasonably contiguous.

4. If the unit of general purpose local government chooses not to exercise the right of first refusal, GOEA shall publicly solicit applications for designation as an area agency on aging and shall give preference to an established office on aging as defined in §1109.B.1.a.

5. GOEA shall take into account the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under the state plan when designating AAAs.

#### B. Eligible Applicants for AAA Designation

1. Any of the following may apply for designation as an AAA:

a. an established office on aging which is operating within the PSA. The term "established office on aging" means a public or private nonprofit agency/organization that has functioned for at least one year for the purpose of planning, developing or administering aging service programs. The agency/organization must be capable of functioning effectively throughout the PSA designated by GOEA;

b. any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an AAA by the chief elected official of such unit;

c. any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only in behalf of such combination for the purpose of serving as an AAA;

d. any other public or private nonprofit agency in a PSA, or any separate organizational unit within such agency, which is under GOEA's supervision or direction for this

purpose and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such PSA.

#### C. Application Procedure for AAA Designation

1. Eligible Applicants for AAA designation shall submit a written application in the format prescribed by GOEA.

2. Applications for AAA designation shall include:

- a. the legal basis upon which the agency is organized;
- b. a list of members serving on the governing body and the agencies/organizations they represent;
- c. a copy of the agency's most recent audit;
- d. a copy of the agency's current approved financial plan;
- e. an organizational chart depicting the manner in which the agency's staff will be divided to fulfill its AAA responsibilities;
- f. job descriptions reflecting the proposed AAA's intent to carry out the advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation functions;
- g. assurances that the agency, once designated, shall provide for an adequate and qualified staff to perform all of the AAA functions prescribed in the Older Americans Act; and
- h. such other information as GOEA deems necessary.

#### D. Criteria for Approval of Applications for AAA Designation

1. The application must be submitted in a timely manner, including all required documentation. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.

2. The agency applying for AAA designation shall provide an opportunity for on-site review and assessment by GOEA to ensure that said organization has the capacity to perform the functions of an AAA.

3. Applications must demonstrate that the agency, if designated, will have the ability to fulfill the mission of an AAA.

#### E. Procedure for Due Process to Affected Parties

1. GOEA shall approve or disapprove any application received under §1109.C.1.

2. Any applicant under §1109.B whose application for designation as an AAA is denied by GOEA may appeal the denial under the procedures specified in LAC 4:VII.1267.

#### F. Duration of AAA Designation

The designated AAA shall function in that capacity for the duration of the area plan unless the AAA informs GOEA that it no longer wishes to carry out the responsibilities of an AAA or GOEA withdraws the designation as provided in §1109.G.

#### G. Withdrawal of AAA Designation

1. The Governor's Office of Elderly Affairs shall withdraw the AAA designation whenever GOEA, after reasonable notice and opportunity for a hearing, finds that:

- a. the AAA does not meet the requirements of 45 CFR 1321; or
- b. the plan or plan amendment is not approved; or

c. there is substantial failure in the provisions or administration of an approved area plan to comply with any provision of 45 CFR 1321 or the GOEA Policy Manual; or

d. activities of the AAA are inconsistent with the statutory mission prescribed in the Act or in conflict with the requirement that it function only as an AAA.

2. If GOEA withdraws the AAA's designation, it shall:

a. provide a plan for the continuity of AAA functions and services in the affected planning and service area; and

b. designate a new AAA in a timely manner.

3. If necessary to ensure continuity of service in a planning and service area, GOEA may, for a period up to 180 days after its final decision to withdraw the designation of an AAA:

a. perform the responsibilities of the AAA; or

b. assign the responsibilities of the AAA to another agency in the planning and service area.

4. The Assistant Secretary of the Administration on Aging may extend the 180-day period if GOEA:

a. notifies the Assistant Secretary in writing of its action;

b. requests an extension; and

c. demonstrates to the satisfaction of the Assistant Secretary a need for the extension.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:932, R.S. 46:935 and OAA Section 305(a)(1).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2206 (November 1999).

### §1111. Repealed.

### Subchapter F. Hearing Procedures

#### §1265. General Hearing Provisions

A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide the opportunity for a hearing, on request, to area agencies on aging submitting plans under Title III of the Older Americans Act, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan; and to any unit of general purpose local government, region within the state recognized for area wide planning, metropolitan area, or Indian reservation that applies for designation as a planning and service area when GOEA initiates certain types of action or proceedings. This Section specifies the timing and procedures for the hearings.

#### B. Definitions

*Act*—is the Older Americans Act (42 United States Code Section 3001 et seq.).

*Administration on Aging*—an agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

*Area Agency on Aging*—is the agency designated by the Governor's Office of Elderly Affairs in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

*Area Plan*—is the document submitted by an area agency to the Governor's Office of Elderly Affairs in order to receive contracts from the Governor's Office of Elderly Affairs.

*Assistant Secretary for Aging*—the head of the Administration on Aging.

*Contract*—is an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

*Director*—is the director of the Governor's Office of Elderly Affairs.

*Governor's Office of Elderly Affairs*—is the single state agency designated to develop and administer the state plan and be the focal point on aging in the State of Louisiana.

*Hearing Examiner*—is an impartial person designated to preside at the hearing and render a proposed final decision.

*Interested Person*—is any person who has a justifiable and clearly identifiable interest in the decision being appealed.

*Party*—is any petitioner or the area agency or the Governor's Office of Elderly Affairs which proposed or decided the action being appealed.

*Person*—is an individual, partnership, corporation, association, governmental agency or subdivision, or public or private organization of any character.

*Petitioner*—is any person who has a right to a hearing under these rules and has filed a written request for a hearing.

*Planning and Service Area*—is a geographic area of the state that is designated by the State Agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

*Service Provider*—is an entity that is awarded a subcontract from an area agency to provide services under the area plan.

*State Agency*—is the single state agency designated to develop and administer the state plan and to be the focal point on aging in the state.

#### C. General Procedures for Hearing

1. Decisions Unresolved on Effective Date of These Rules. These rules shall be applicable to all cases involving actions in which the petitioner has filed a request for hearing within 30 days of the receipt of the notice of such action, and a hearing has not yet been held or informal disposition or arrangements made as specified in §1265.C.4.

2. Computation of Time. In computing any record of time prescribed by these rules, or by any applicable statute, the period shall begin on the day after the event or act cited in the rule or statute and conclude on the last day of the computed period, unless the last day be a Saturday, Sunday, or a legal holiday, in which case the period concludes on the next day which is neither a Saturday, Sunday, nor a legal holiday.

3. Representation of Petitioner. Any party may be assisted by an attorney at law authorized to practice law before the Supreme Court of the State of Louisiana. Any party may appear personally or be represented by an employee or officer, or other person authorized by the party to represent the party.

4. Informal Disposition. Informal disposition or arrangements may be made of any matters under these rules by written agreement between petitioner and the area agency or the Governor's Office of Elderly Affairs proposing or deciding the action that resolves the issue(s) that led to the hearing.

D. Incorporation of Administrative Procedure Act. There is hereby incorporated as a part of these rules, to the extent same be applicable and pertinent, the provisions of LA R.S.

49:951 et seq., the Louisiana Administrative Procedure Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), Section 307(a)(5) and 45 CFR 1321.43(e).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), amended LR 25:2207 (November 1999).

#### §1267. Hearing Procedures for Area Agencies

A. Purpose. The purpose of this Section is to establish procedures that Governor's Office of Elderly Affairs (GOEA) will follow to provide due process to affected AAAs whenever GOEA initiates particular types of action or proceedings.

B. Right to a Hearing. GOEA shall provide affected AAAs reasonable notice and opportunity for a hearing whenever GOEA initiates an action or proceeding to:

1. revoke the designation of an AAA;
2. designate an additional planning and service area in the State;
3. divide the State into different planning and service areas; or
4. otherwise affect the boundaries of the planning and service areas in the State.

#### C. Notice of Proposed Action

1. The Governor's Office of Elderly Affairs shall issue a written notice to the area agency which shall include:

- a. a statement of the proposed action;
- b. a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based; and
- c. a reference to the particular sections of statutes, regulations, and rules involved.

2. The notice shall be sent by registered or certified mail, return receipt requested.

#### D. Request for Hearing

1. The request for hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the proposed action.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the proposed action;
- c. a specific statement of any section of the act or regulations believed to have been violated;
- d. a certified copy of the minutes or resolution in which petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization; and
- e. a request for a transcript of the hearing, if desired.

#### E. Notice of Hearing

1. Upon receipt of a request for hearing the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner and interested persons which shall include:

- a. a statement of time, date, and location of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular sections of statutes, regulations, and rules involved; and
- d. a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.

3. Petitioner and other parties shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

F. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing subject to the provisions of LA R.S. 49:960. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the Governor's Office of Elderly Affairs or petitioner.

#### G. Rules of Evidence

1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the Governor's Office of Elderly Affairs specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of the Governor's Office of Elderly Affairs and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted

to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

H. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or their representatives shall be governed by LA R.S. 49:960.

I. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956(5)-(8).

#### J. Hearing

1. Petitioner shall open and present its evidence to establish its position on the matters involved. Interested persons shall follow and present their evidence; then the Governor's Office of Elderly Affairs shall present its evidence. Petitioner may thereafter present rebuttal evidence only, such evidence to be confined to issues raised in petitioner's opening presentation and Governor's Office of Elderly Affairs following presentation or that of others. Petitioner shall be given the opportunity to offer final argument, but no additional presentation of evidence.

2. The hearing shall be completed within 120 days of the date the request for hearing was received.

K. Transcript. The proceedings of the hearing shall be transcribed on request of any party or person. The cost of transcription will be borne by the person requesting the transcript, unless otherwise provided by law. The Governor's Office of Elderly Affairs may require a deposit in the form of a certified check or cashier's check in an amount reasonably determined by the Governor's Office of Elderly Affairs to be adequate to cover all costs of transcription. In the event that transcription is not requested, the Governor's Office of Elderly Affairs, at its option, may produce a summary record of the proceedings of the hearing; provided that if such a summary record is produced by Governor's Office of Elderly Affairs, it shall provide the area agency with notice of the fact that such summary record was prepared and with the opportunity to copy or inspect same.

#### L. Final Decision

1. All final decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. The area agency shall comply with the final decision. A copy of the decision shall be sent immediately to the parties by registered or certified mail, return receipt requested.

2. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under these rules includes:

1. all pleadings, motions, and intermediate rulings;
2. evidence received or considered, or a resume thereof if not transcribed, except matters so obvious that a statement of them would serve no useful purpose;
3. a statement of matters officially noted;
4. offers of proof, objections and rulings on them;
5. proposed findings and exceptions; and
6. any decision, opinion, or report by the hearing examiner presiding at the hearing.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2208 (November 1999).

**§1269. Hearing Procedures for Applicants for Planning and Service Area Designation**

A. Purpose. The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to any qualified applicant for designation as a planning and service area (PSA) whose application is denied by the Governor's Office of Elderly Affairs.

B. Right to a Hearing. The Governor's Office of Elderly Affairs shall provide an opportunity for a hearing, and issue a written decision to any unit of general purpose local government; region within the state recognized for purposes of areawide planning which includes one or more such units of general purpose local government; metropolitan area; or Indian reservation whose application for designation as a planning and service area is denied.

C. Request for Hearing

1. The request for a hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the adverse decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the Governor's Office of Elderly Affairs decision is appealed and all grounds upon which petitioner refutes the basis of the adverse decision. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the action;
- c. a specific statement of any section of the act or regulations believed to have been violated;
- d. a certified copy of the minutes or resolution in which the applicant's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of a quorum of the governing body of the agency or organization; and
- e. a request for a transcript of hearing, if desired.

3. Petitioners shall be given no less than ten days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner, which shall include:

- a. a statement of time, date, location, and nature of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular section of statutes, regulations, and rules involved; and
- d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.

3. If the Governor's Office of Elderly Affairs is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.

4. Petitioner shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of LA R.S. 49:960. The hearing examiner shall conduct the hearing in an orderly fashion and in accordance with the procedures outlined herein. It is the responsibility of the hearing examiner to fully consider information relevant to the complaint and draft a fair decision based on such information.

F. Rules of Evidence. The rules of evidence for hearings held under §1269 of this manual shall be as provided in §1267.G.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his representative shall be governed by LA R.S. 49:960, the Louisiana Administrative Procedure Act.

H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Louisiana Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1269 shall be as provided in §1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1269 shall be as provided in §1267.J.

K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested.

L. Rehearing. Procedures for rehearings shall be governed by LA R.S. 49:959.

M. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

N. Appeal to Assistant Secretary for Aging. Any eligible applicant for PSA designation, whose application has been denied, and who has been provided a written decision by the GOEA, may appeal the denial to the c Assistant Secretary for Aging in writing within thirty days following receipt of the State agency's decision. Such appeal shall be governed by the procedures outlined in the federal regulations issued by the Assistant Secretary for Aging.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), (4), and 45 CFR 1321.47.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2210 (November 1999).

P.F. "Pete" Arceneaux, Jr.  
Executive Director

9910#077

**RULE**

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

Members and Travel (LAC 4:VII.905 and 911)

In accordance with Act 268 of the 1999 Regular Legislative Session, the Louisiana Department of Veterans Affairs advertises its intent to amend LAC 4:VII.905 and 977 pertaining to payment of per diem and traveling expenses for members of the Veterans' Affairs Commission.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 9. Veterans' Affairs**

**Subchapter A. Veterans' Affairs Commission**

**§905. Members**

A. Each member shall be paid \$75 each day devoted to the work of the commission, but not more than \$1500 in any one fiscal year.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), LR 25:2211 (November 1999).

**§911. Travel**

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), amended LR 24:936 (May 1998), LR 25:2211 (November 1999).

Joey Strickland  
Executive Director

9911#010

**RULE**

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

State Aid Eligibility (LAC 4:VII.917)

In accordance with Act 1031 of the 1999 Regular Legislative Session, the Louisiana Department of Veterans Affairs advertises its intent to amend LAC 4:VII.917.A.2 and 8, pertaining to eligibility requirements for the State Aid Program.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 9. Veterans' Affairs**

**Subchapter B. State Aid Program**

**§917. Eligibility**

A. Application must be made through the Parish Veterans Service Office. In order to be eligible, the following criteria must be met:

\* \* \*

2. the veteran must be rated 90 percent or above service-connected disabled or who has been determined to be unemployable as a result of a service-connected disability by evaluation of the United States Department of Veterans Affairs Rating Schedule.

\* \* \*

8. the eligible student may attend any state college or university, including institutions under the jurisdiction of the Board of Supervisors of Community and Technical Colleges; all entrance requirements for such institution must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 25:2211 (November 1999).

Joey Strickland  
Executive Director

9911#009

**RULE**

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

Respiratory Therapists—Licensing and Practice  
(LAC 46:XLV.2501-2569, 5501-5519)

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 Respiratory Therapy Practice Act, R.S. 37:3351-3361, and particularly 37:3355(3), the Louisiana Medical Practice Act, 37:1270(B)(6), and the provisions of the Louisiana Administrative Procedure Act, had amended its rules governing the licensure of respiratory therapists, LAC 46:XLV, Chapter 25, §§2501-2569, and Chapter 55, §§5501-5519, to conform such rules to the definitional and credentialing changes implemented by the national certifying board for respiratory therapists, the National Board for Respiratory Care, Inc., and to provide for other substantive modifications and technical corrections. The rule amendments are set forth below.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

##### **Subpart 1. General**

#### **Chapter 25. Respiratory Therapists**

##### **Subchapter A. General Provisions**

##### **§2501. Scope of Chapter**

The rules of this chapter govern the licensing of certified and registered respiratory therapists in the State of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2212 (November 1999).

##### **§2503. Definitions**

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified:

*Applicant*—a person who has applied to the board for licensure as a licensed registered respiratory therapist or a licensed certified respiratory therapist.

*Board*—the Louisiana State Board of Medical Examiners.

*Certified Respiratory Therapist*—also known as Certified Respiratory Therapy Technician, prior to July 1, 1999, means one who has successfully completed the entry level examination or its successor administered by the National Board for Respiratory Care.

*Chest Pulmonary Therapy (CPT)*—chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping, positive expiratory therapy (PEP), deep breathing/cough exercise, and inspiratory muscle training.

*Good Moral Character*—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3358 for the denial, suspension or revocation of respiratory care licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a

representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by this chapter.

*Licensed Respiratory Therapist*—a person who is licensed by the board and has the lawful authority to engage in the practice of respiratory care in the state of Louisiana, only under the qualified medical direction and supervision of a licensed physician, as evidenced by certificate duly issued by and under the official seal of the board. The term *licensed respiratory therapist* shall signify both certified respiratory therapist and registered respiratory therapist.

*Medical Gases*—gases commonly used in a respiratory care department in the calibration of respiratory care equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of diseases (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of diseases (nitrogen, carbon dioxide, helium, oxygen and compressed air).

*National Board for Respiratory Care*—the official credentialing board of the profession, or its successor.

*Nontraditional Respiratory Care Education Program*—a program of studies primarily through correspondence with tutorial assistance and with a clinical component comparable to a traditional program.

*Physician*—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

*Registered Respiratory Therapist*—one who has successfully completed the Advanced Practitioner Examination or its successor administered by the National Board for Respiratory Care.

*Respiratory Care*—the allied health specialty practiced under the direction, supervision and approval of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon written prescription or verbal order of a physician and under his supervision:

- a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, cardiopulmonary rehabilitation, and resuscitation;
- b. insertion and care of airways as ordered by a physician;
- c. institution of any type of physiologic monitoring applicable to respiratory care;
- d. administration of drugs and medications commonly used in respiratory care that have been prescribed by a physician to be administered by qualified respiratory care personnel;
- e. initiation of treatment changes and testing techniques required for the implementation of respiratory care protocols as directed by a physician;
- f. administration of medical gases and environmental control systems and their apparatus;
- g. administration of humidity and aerosol therapy;
- h. application of chest pulmonary therapy;
- i. the institution of known and physician-approved patient driven protocols relating to respiratory care under physician approval in emergency situations in the absence of immediate direction by a physician;



j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, and the measurement of cardiopulmonary functions as commonly performed in respiratory therapy, and the starting of intravenous lines for the purpose of administering fluids as pertinent to the practice of respiratory care under the supervision of a licensed physician;

k. supervision of other respiratory therapy personnel; and

l. transcription and implementation of the written and verbal orders of a physician.

*Respiratory Therapy Practice Act or the Act*—Acts 1985, Number 408, as amended, R.S. 37:3351-3361;

*United States Government*—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Respiratory care shall also include teaching patient and family respiratory care procedures as part of a patient's ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:744 (June 1993), LR 25:2212 (November 1999).

### **Subchapter B. Requirements and Qualifications for Licensure**

#### **§2505. Scope of Subchapter**

The rules of this Subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2213 (November 1999).

#### **§2507. Requirements for Licensure of Registered Respiratory Therapist**

A. To be eligible and qualified to obtain a registered respiratory therapist license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. possess current credentials as a registered respiratory therapist granted by the National Board of Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination;
5. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and

Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);

6. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

7. satisfy the procedures and requirements for application provided by §§2515 to 2519 of this Chapter; and

8. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 25:2213 (November 1999).

#### **§2509. Requirements for Licensure of Certified Respiratory Therapists**

A. To be eligible and qualified to obtain a certified respiratory therapist license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. have successfully completed:
  - a. a traditional respiratory care education program then accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care; or
  - b. a nontraditional respiratory care education program then accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care which was conducted in accordance with the provisions of §2510 of this chapter;
5. possess at least one of the following credentials:
  - a. current credentials as a certified respiratory therapist granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; or
  - b. have taken and successfully passed the examination administered by the board as further detailed in §§2521 to 2537 of this chapter; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana; or
  - c. a temporary license in accordance with the provisions of §2547 of these rules and who has taken and passed the licensing examination administered by the board; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana;
6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United

States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the Commissioner's regulations thereunder (8 C.F.R.);

7. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

8. satisfy the procedures and requirements for application provided by §§2515 to 2519 of this Chapter and, if applicable, the procedures and requirements for examination provided by §2521 to §2537 of this Chapter; and

9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 19:755 (June 1993), LR 25:2213 (November 1999).

#### **§2510. Conduct of Nontraditional Training Programs**

A. To qualify an applicant for licensure as a certified respiratory therapist pursuant to §2509.A.4.b, a nontraditional respiratory care education program must be conducted in accordance with the following standards.

1. A certified respiratory therapist student participating in such a program must be concurrently enrolled in a respiratory care education program of a school or college accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care.

2. The hospital furnishing tutorial assistance, testing, clinical training and similar services for the benefit of the student must:

a. have a written affiliation agreement with the accredited program;

b. designate a training coordinator who shall have had prior experience in a formal respiratory care educational environment with at least five years clinical experience in respiratory care and who shall be a licensed respiratory therapist or a physician who actively practices respiratory care;

c. provide for tutorial assistance and supervision of the student's clinical activities to be provided by a licensed respiratory therapist or a physician who actively practices respiratory care; and

d. be able to provide students with an opportunity to observe and participate in respiratory care procedures adequate in number and type to support the clinical training of entry level therapists relative to the number of students admitted to and participating in such training.

3. A student providing respiratory care to patients as permitted by R.S. 37:3361(3) in the course of a student's

clinical training shall be supervised in accordance with the provisions of §5515 of these rules and shall be identified to patients and licensed practitioners by title or otherwise which clearly designates the student's status as a student or trainee.

B. A nontraditional respiratory care education program which does not conform to and apply the standards prescribed in §2510.A shall not be considered by the board to qualify as an applicant for licensure under §2509.A.4.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:746 (June 1993), amended LR 25:2214 (November 1999).

#### **§2511. Licensure by Reciprocity**

A. A person who possesses and meets all of the qualifications and requirements for licensure specified in §2507 of this Chapter, save for possessing current credentials as a registered respiratory therapist as prescribed in §2507.A.4, shall nonetheless be deemed qualified for licensure, as a registered respiratory therapist, provided that such person presents proof of current licensure as a registered respiratory therapist in another state, the District of Columbia, a territory of the United States, or another country which requires standards for licensure considered by the board to exceed or to be equivalent to the requirements for licensure under this chapter, provided such state, district, territory, or country accord similar privileges of licensure to persons who have been granted their licenses under the provisions of this chapter.

B. A person who possesses and meets all of the qualifications and requirements for licensure specified by §2509, save for successfully passing the licensure examination administered by the board or save for possessing current credentials as a certified respiratory therapist as prescribed in §2509.A.4.a, shall nonetheless be deemed qualified for licensure as a certified respiratory therapist provided that such person presents proof of current licensure as a certified respiratory therapist in another state, the District of Columbia, a territory of the United States, or another country which requires standards for licensure considered by the board to exceed or to be equivalent to the requirements for licensure under this chapter, provided such state, district, territory, or country accord similar privileges of licensure to persons who have been granted their licenses under the provisions of this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2214 (November 1999).

#### **§2513. Temporary License**

The board may issue a temporary license as a licensed respiratory therapist to an applicant who possesses and meets all of the qualifications and requirements specified in §2547.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-61.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 25:2214 (November 1999).

### **Subchapter C. Application**

#### **§2515. Purpose and Scope**

The rules of this subchapter govern the procedures and requirements applicable to application to the board for licensure of a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999).

#### **§2517. Application Procedure**

A. Application for licensure shall be made upon forms prescribed and supplied by the board.

B. If application is made for licensure of a certified respiratory therapist on the basis of examination to be administered by the board, an initial application must be received by the board not less than 90 days prior to the scheduled date of the examination for which the applicant desires to sit (see Subchapter D of this Chapter respecting dates and places of examination). A completed application must be received by the board not less than 60 days prior to the scheduled date of such examination.

C. Application for licensure as a certified respiratory therapist based upon qualifications not requiring written examination administered by the board, or an application for licensure as a registered respiratory therapist may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon personal request at or written request directed to the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Application forms will be mailed by the board within 30 days of the board's receipt of a request therefor. To ensure timely filing and completion of applications, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §2517.B.

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

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this chapter;
2. one recent photograph of the applicant; and
3. such other information and documentation as is referred to or specified in this chapter or as the board may require to evidence qualification for licensure.

F. An application for licensure of a certified respiratory therapist on the basis of examination shall include all documents prescribed by the National Board for the Respiratory Care entry level examination and any other information and documentation deemed necessary by the board.

G. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

H. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, at its discretion, require a more detailed or

complete response to any request for information set forth in the application form as a condition to consideration of an application.

I. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules as established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999).

#### **§2519. Effect of Application**

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a registered respiratory therapist or certified respiratory therapist, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capacity to act as a registered respiratory therapist or certified respiratory therapist with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to this section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the respiratory care licensing authority of any state, the National Board for Respiratory Care, the Louisiana Department of Health and Hospitals, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999).

#### **Subchapter D. Examination**

##### **§2521. Purpose and Scope**

The rules of this Subchapter govern the procedures and requirements applicable to the examination as administered by the board for the licensure of certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

##### **§2523. Designation of Examination**

The examination administered and accepted by the board pursuant to R.S. 37:3354 is the National Board for Respiratory Care entry level examination or its successor, developed by the National Board for Respiratory Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

##### **§2525. Eligibility for Examination**

To be eligible for examination by the board, an applicant shall possess all qualifications for licensure as a certified respiratory therapist prescribed by this chapter save for having successfully completed the examination; provided, however, that an applicant who has completed, or prior to the next scheduled examination will complete the traditional respiratory care program required by §2509.A.4 of this Chapter, but who does not yet possess evidence of such completion shall be deemed eligible for examination upon submission to the board of a letter subscribed by the director of the approved program certifying that the applicant has completed the applicable program or will have completed such program prior to the board's next scheduled examination and specifying the date on which such curriculum will be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

##### **§2527. Dates, Places of Examination**

The board's licensure examination is administered at least annually by the National Board for Respiratory Care in the city of New Orleans. The applicants shall be advised of the specific date, time and location of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the Louisiana State Board of Medical Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

##### **§2529. Administration of Examination**

A. The board's licensure examination is administered by a chief proctor, appointed by the board, and one or more assistant proctors. The chief proctor 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 examination, to fix and signal the time for beginning and ending the examination or the section thereof, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees or the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination and the examination process, including, without limitation, excusing an applicant for 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 chief proctor or his designated assistant proctor proof of registration for the examination and positive personal photographic identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions or requests made or prescribed by the chief proctor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

##### **§2531. Subversion of Examination Process**

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §2535 of this Chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions or requests made by the chief proctor or an assistant proctor.

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copying, duplication, written notes or electronic recording, any portion of the licensure examination;

4. selling, distributing, buying, receiving, obtaining or having unauthorized possession of a future, current, or previously administered licensure examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

### **§2533. Finding of Subversion**

A. When, during the administration of examination, the chief proctor or any assistant proctor has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the chief proctor shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. In the event of suspected conduct described in 2531.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the chief proctor, an assistant proctor, an applicant-examinee or any other person, has probable 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 in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §2535 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:9955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2217 (November 1999).

### **§2535. Sanctions for Subversion of Examination**

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination

process shall be permanently disqualified from taking the examination and from licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board with reasons given for such failure.

C. In addition to the sanctions permitted or mandated by §2535.A and B, as to an applicant-examinee found by the board during the examination to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board may:

1. revoke licensure issued to such applicant;

2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or

3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2217 (November 1999).

### **§2536. Restrictions, Limitation on Examination**

With respect to any written examination administered by the board the successful passage of which is a condition to any license or permit issued under this chapter, an applicant having failed to obtain a passing score upon taking any such examination four times shall not thereafter be considered eligible for licensing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:479 (May 1991), LR 25:2217 (November 1999).

### **§2537. Passing Score, Reporting of Examination Scores**

An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the National Board for Respiratory Care as a passing score; provided, however, that with respect to any given administration of the examination, the board may determine to accept a lower or higher score as passing. Applicants for licensure shall be required to authorize the National Board for Respiratory Care to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the National Board for Respiratory Care.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2217 (November 1999).

### **§2539. Lost, Stolen or Destroyed Examinations**

The submission of an application for examination by the board 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 board or the National Board for Respiratory Care, shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2218 (November 1999).

### **Subchapter E. Licensure Issuance, Termination, Renewal, Temporary Issuance and Reinstatement**

#### **§2540. Issuance of License**

A. If the qualifications, requirements and procedures prescribed or incorporated by §§2507, 2509 or 2511 are met to the satisfaction of the board, the board shall issue to the applicant a license evidencing the applicant's licensure as a registered respiratory therapist or a certified respiratory therapist in the state of Louisiana.

B. A license issued by the board on the basis of examination by the board shall be issued by the board within 30 days following the reporting of the applicant's license examination scores to the board. A license issued to an applicant not required to be examined by the board shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2218 (November 1999).

#### **§2541. Expiration of License**

A. Every license issued by the board under this chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

B. The timely submission of an application for renewal of a license as provided by §2543 hereof shall operate to continue the expiring license in force and effect pending the board's issuance, or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:2218 (November 1999).

#### **§2543. Renewal of License**

A. Every license issued by the board under this subchapter shall be renewed annually on or before the date

of its expiration by submitting to the board an application or renewal, upon forms supplied by the board, together with the applicable renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by subchapter G of these rules.

B. Every license issued by the board under this chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated for the transition to birth month licensure. An application for renewal of license 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 licensed respiratory therapist as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:2218 (November 1999).

#### **§2545. Reinstatement of License**

A. A license which has expired without renewal may be reinstated by the board if application for reinstatement is made not more than two years from the date of expiration and subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of recommendation, one from a reputable licensed physician and one from a reputable licensed respiratory therapist with whom the applicant has been associated in the applicant's most recent place of employment, together with the applicable renewal fee, plus a penalty equal to twice the renewal fee.

C. With respect to an application for reinstatement made more than one year after the date on which the license expired, as a condition of reinstatement, the board may require that the applicant complete a statistical affidavit upon a form provided by the board, provide the board with a recent photograph, and/or possess a current, unrestricted license issued by another state, evidencing satisfaction of the requirements of Chapter 25, Subchapter G with respect to continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 25:2218 (November 1999).

#### **§2547. Temporary License**

A. The board may issue a 12-month temporary license as a registered respiratory therapist or a certified respiratory therapist under the following terms and conditions.

1. To be eligible for a 12-month temporary license as a registered respiratory therapist or a certified respiratory therapist, an applicant shall:

a. be qualified for licensure under §2507.A or §2509.A, save for having taken and passed a required licensing examination;

b. have successfully completed a respiratory care educational program accredited by the Commission on Accreditation of Allied Health Education Programs or its successor, in collaboration with the Committee on Accreditation for Respiratory Care;

c. have taken, or made application to take, the required written examination and be awaiting the administration and/or reporting of scores thereon; and

d. have applied within one year of the applicant's date of graduation from an accredited respiratory care education program. Exceptions to §2547.A.1.d, may be made at the discretion of the board with the advice of the Advisory Committee, provided that such request is submitted within the initial one year period from the date of graduation.

2. A temporary license issued under this subsection shall be effective for 12 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

3. A temporary license may be extended only once, for a 6 month period, provided the applicant submits a written request for extension to the board. All such requests for a 6 month extension will be referred to the Advisory Committee for review and recommendation to the board. The Advisory Committee or the board may require additional documents from the licensee, such as:

a. licensing examination results for all attempts;

b. evidence of having attended entry level examination review courses; or

c. proof of extenuating circumstances preventing the licensee from attempting the licensing examination.

4. A temporary license so renewed under this subsection shall be effective for not more than 6 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

B. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a registered respiratory therapist, who provides satisfactory evidence of registration by the National Board for Respiratory Care pursuant to written examination administered by the NBRC, and who is not otherwise demonstrably ineligible for licensure under §2507 of these rules. A permit issued under this subsection may not be extended or renewed beyond its initial term.

C. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a certified respiratory therapist, who provides satisfactory evidence of having successfully completed a respiratory care educational

program approved by the Committee on Accreditation for Respiratory Care or its successor organization, and who is not otherwise demonstrably ineligible for licensure under §2509 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:480 (May 1991), LR 19:746 (June 1993), LR 25:2218 (November 1999).

## **Subchapter F. Advisory Committee on Respiratory Care**

### **§2549. Organization; Authority and Responsibilities**

A. The Advisory Committee on Respiratory Care (the "committee"), as established, appointed and organized pursuant to R.S. 37:3356 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded it by the Act;

2. function and meet as prescribed by the Act;

3. serve as a clearinghouse for nontraditional respiratory care education and training programs conducted in the state of Louisiana;

4. advise the board on issues affecting the licensing of registered and certified respiratory therapists and on the regulation of respiratory care in the state of Louisiana;

5. perform such other functions and provide such additional advice and recommendations as may be requested by the board;

6. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards, policies and procedures respecting respiratory care licensure and practice;

7. serve as liaison between and among the board, licensed respiratory therapists, and professional organizations; and

8. have authority to review and advise the board on requests for extension of temporary licenses and license reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 25:2219 (November 1999).

### **§2551. Delegation of Authority**

A. Authority is hereby delegated to the Advisory Committee on Respiratory Care to:

1. survey, by site visit or otherwise, each hospital or other institution located in this state which is affiliated with and at which is conducted a nontraditional respiratory care education and training program for the purpose of reporting to the board as provided by §2351.B;

2. assist the board in the review of applicant's satisfaction of continuing education requirements for renewal of licensure under this chapter as provided in §2551.D.

B. The committee shall annually report to the board, in writing, on each such nontraditional respiratory care education and training program conducted in this state and,

with respect to each such program, advise the board with respect to:

1. such program's compliance with the provisions of these rules relating to the conduct of such programs;

2. the number of students enrolled and participating in such program during the preceding year;

3. the number of graduates of such program having taken the National Board of Respiratory Care entry-level examination and the number of such graduates having successfully passed such examination; and

4. any recommendations the committee may have with respect to the future conduct of such program and regulation of the same by the board.

C. In discharging the responsibilities provided for by this section, the committee shall have authority to:

1. periodically request and obtain necessary and appropriate information from hospitals or other institutions located in this state which are affiliated with and at which are conducted a nontraditional respiratory care education and training programs, from the coordinators of such program, and from students enrolled in such programs; and

2. periodically conduct visits of the hospitals or other institutions at which such programs are conducted in this state.

D. To carry out its duties of §2551.A.2, the Advisory Committee is authorized by the board to advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Chapter 25, Subchapter G, including the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing professional education programs for all licensed respiratory therapists and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §2559 of these rules; and

2. review documentation of continuing professional education by licensed respiratory therapists, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

3. request and obtain from applicants for renewal of licensure such additional information as the Advisory Committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

E. In discharging the functions authorized under this section the Advisory Committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the Advisory Committee members pursuant to §§2551.A.2 and D shall be considered confidential. Advisory Committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization from the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270(B)(6) and R.S. 37:3357.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 22:1219 (December 1996), LR 25:2219 (November 1999).

### **Subchapter G. Continuing Professional Education** **§2553. Scope of Subchapter**

The rules of this subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a licensed respiratory therapist, as required by §2543 and §2555 of these rules, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:2220 (November 1999).

### **§2555. Continuing Professional Educational Requirement**

A. Subject to the exceptions specified in §2569 of this subchapter, to be eligible for renewal of licensure for 1998 and thereafter, a registered respiratory therapist or certified respiratory therapists shall, within each year during which he holds licensure, evidence and document, upon forms supplied by the board, successful completion of not less than 10 hours, or 1.0 continuing education unit (CEU) of continuing education courses sanctioned by the American Association of Respiratory Care, the Respiratory Care Advisory Committee to the board, or their successors.

B. One Continuing Education Unit (CEU) constitutes and is equivalent to 10 hours of participation in organized continuing professional education programs approved by the board and meeting the standards prescribed in this subchapter. One hour of continuing education credit is equivalent to 50 minutes of instruction.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:2220 (November 1999).

### **§2557. Qualifying Continuing Professional Education Programs**

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of respiratory care;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of respiratory care;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation and is up to date;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of 50 continuous minutes in length.

B. Other approved continuing education activities include:



1. earning a grade of "C" or better in a college or university course required to earn a degree in cardiopulmonary science or respiratory care, or grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 15 contact hours or 1.5 CEUs;

2. programs on advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS) or Neonatal Advanced Life Support (NALS), or their successors each of which will equal 10 contact hours;

3. successfully completing a recredentialing examination for the highest credential held by the registered respiratory therapist or the certified respiratory therapist including certified respiratory therapist (CRT), registered respiratory therapist (RRT), certified pulmonary function technologist (CPFT), registered pulmonary function technologist (RPFT), registered cardiovascular technologist (RCVT), and certified cardiovascular technologist (CCVT), with each such recredentialing examination equal to 10 contact hours;

4. initial certification as a CPFT, RPFT Perinatal/Pedi Specialist, RCVT or CCVT and each such certification will equal 10 hours;

5. any accredited home study/correspondence program approved by the American Association for Respiratory Care (AARC) or the Respiratory Care Advisory Committee;

6. any initial instructor course taken in preparation for teaching ACLS, PALS, Basic Life Support (BLS) or NALS or their successors; and

7. successful completion by a certified respiratory therapist of the advanced practitioner examination (Registry examination).

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable CEU programs under these rules:

1. any program not meeting the standards prescribed by §2557.A;

2. independent/home study correspondence programs not approved or sponsored by the AARC or the Louisiana Respiratory Care Advisory Committee;

3. in-service education provided by a sales representative;

4. teaching, training or supervisory activities not specifically included in §2557.B;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or in service activities;

7. giving or authorizing verbal or written presentations, seminars or articles or grant applications;

8. passing basic cardiac life support (BCLS); and

9. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the presented content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:2220 (November 1999).

### **§2559. Approval of Program Sponsors**

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §2557 shall be deemed approved for purposes of satisfying continuing education requirements under this subchapter, if sponsored or offered by the American Association for Respiratory Care (AARC), the Louisiana Hospital Association, the Louisiana Nurses Association, the American Lung Association, the American Heart Association, the American College of Chest Physicians, the American Thoracic Society, the American Nursing Association, the American Society of Cardiovascular Professionals, the American Medical Association, the American College of Cardiology, the Louisiana Association of Cardiovascular and Pulmonary Rehabilitation, the Louisiana State Medical Society, the American Board of Cardiovascular Perfusion, the American Nursing Credentialing Center, the Society for Diagnostic Medical Sonographers, any hospital or agency belonging to the Louisiana Hospital Association, any hospital or agency accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and Cardiovascular Credentialing International.

B. Upon the recommendation of the Advisory Committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §2557.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:2221 (November 1999).

### **§2561. Approval of Program**

A. A continuing professional education program or activity sponsored by an organization or entity not deemed approved by the board pursuant to §2559.A may be pre-approved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this subchapter upon written request to the board therefore, upon a form supplied by the board, providing a complete description of the nature, location, date, content and purpose of such program and such other information as the board or Advisory Committee may request to establish the compliance of such program with the standards prescribed by §2557. Any such requests for pre-approval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of \$30.00.

B. Any such written request shall be referred by the board to the Advisory Committee for its recommendation. If the recommendation is against the approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting pre-

approval of continuing professional education programs should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:2221 (November 1999).

### **§2563. Documentation Procedure**

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each licensed respiratory therapist subject to such requirements with the application for renewal of licensure form mailed by the board pursuant to §2543 of these rules. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. A licensed respiratory therapist shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing education program.

C. The board or Advisory Committee shall randomly select for audit no fewer than three percent of the licensees each year for an audit of continuing education activities. In addition, the board or Advisory Committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, shall be referred to the Advisory Committee for its evaluation and recommendations pursuant to §2551.D.1.

E. If the Advisory Committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of CEU's claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the Advisory Committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:2222 (November 1999).

### **§2565. Failure to Satisfy Continuing Professional Education Requirements**

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by 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 it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within 90 days, furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;

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

3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §2567.

B. The license of a registered respiratory therapist or a certified respiratory therapist whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs of \$50, together with documentation and certification that the applicant has, for each calendar year since the date on which the applicant's license lapsed, expired, or was revoked, completed an aggregate of 10 contact hours (1.0 CEU) of qualifying continuing professional education.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing education requirement will be subject to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 24:1502 (August 1998), LR 25:2222 (November 1999).

### **§2567. Waiver of Requirements**

The board may, in its discretion upon the recommendation of the Advisory Committee, waive all or part of the continuing professional education required by these rules in favor of a certified respiratory therapist or a registered respiratory therapist who makes written requests for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of continuing professional education requirements. Any licensed respiratory therapist submitting a CEU waiver request is required to do so on or before the date specified for the renewal of the licensee's license by §2543. Any request received by the Board past the date for the renewal of the licensee's licensure will not be considered for waiver but, rather, in accordance with the provisions of §2565.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:2222 (November 1999).

### **§2569. Exceptions to the Continuing Professional Education Requirements**

The continuing professional education requirements prescribed by this subchapter as requisite to renewal of licensure shall not be applicable to:

1. a registered respiratory therapist or a certified respiratory therapist employed exclusively by, or at an institution operated by the United States Government; or

2. a registered respiratory therapist or a certified respiratory therapist who has held an initial Louisiana license on the basis of examination for less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:2222 (November 1999).

## **Chapter 55. Respiratory Therapists**

### **Subchapter A. General Provisions**

#### **§5501. Scope of Chapter**

The rules of this Chapter govern the practice of respiratory care in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2223 (November 1999).

#### **§5503. General Definitions**

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified:

*Applicant*—a person who has applied to the board for licensure as a licensed registered respiratory therapist or a licensed certified respiratory therapist.

*Board*—the Louisiana State Board of Medical Examiners.

*Certified Respiratory Therapist*—also known as Certified Respiratory Therapy Technician, prior to July 1, 1999, means one who has successfully completed the entry level examination or its successor administered by the National Board for Respiratory Care.

*Course of Study*—an accredited, recognized or approved program which leads to a degree or certification of completion within four years, enabling a student to be eligible for registry or certification in respiratory care.

*Good Moral Character*—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3358 for the denial, suspension or revocation of respiratory care licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by Subpart 2 of these rules.

*License*—the lawful authority of a registered respiratory therapist or a certified respiratory therapist to engage in the health specialty of respiratory therapy in the state of Louisiana, as evidenced by a license duly issued by and under the official seal of the board.

*Licensed Respiratory Therapist*—a person who is licensed by the board and has the lawful authority to engage in the practice of respiratory care in the state of Louisiana, only under the qualified medical direction and supervision of a licensed physician, as evidenced by certificate duly issued by and under the official seal of the board. The term

"licensed respiratory therapist" shall signify both certified respiratory therapist and registered respiratory therapist.

*Medical Gases*—gases commonly used in a respiratory care department in the calibration of respiratory care equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of diseases (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of diseases (nitrogen, carbon dioxide, helium, oxygen and compressed air).

*National Board for Respiratory Care*—the official credentialing board of the profession or its successor.

*Physician*—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

*Registered Respiratory Therapist*—one who has successfully completed the Advanced Practitioner Examination or its successor administered by the National Board for Respiratory Care.

*Respiratory Care*—the allied health specialty practiced under the direction, supervision and approval of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon written prescription or verbal order of a physician and under his supervision:

- a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, cardiopulmonary rehabilitation and resuscitation;
- b. insertion and care of airways as ordered by a physician;
- c. institution of any type of physiologic monitoring applicable to respiratory care.
- d. administration of drugs and medications commonly used in respiratory care that have been prescribed by a physician to be administered by qualified respiratory care personnel;
- e. initiation of treatment changes and testing techniques required for the implementation of respiratory care protocols as directed by a physician;
- f. administration of medical gases and environmental control systems and their apparatus;
- g. administration of humidity and aerosol therapy;
- h. application of chest pulmonary therapy;
- i. the institution of known and physician-approved patient driven protocols relating to respiratory care under physician approval in emergency situations in the absence of immediate direction by a physician;
- j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, the measurement of cardiopulmonary functions as commonly performed in respiratory therapy, and the starting of intravenous lines for the purpose of administering fluids as pertinent to the practice of respiratory care under the supervision of a licensed physician;
- k. supervision of other respiratory therapy personnel; and

1. transcription and implementation of the written and verbal orders of a physician.

*Respiratory Therapy Practice Act or the Act—Acts* 1985, Number 408, as amended, R.S. 37:3351-3361;

*United States Government*—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Respiratory care shall also include teaching patient and family respiratory care procedures as part of a patient's ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), LR 25:2223 (November 1999).

### **Subchapter B. Unauthorized Practice, Exemptions, and Prohibitions**

#### **§5505. Unauthorized Practice**

A. No person shall engage in the practice of respiratory care in the state of Louisiana unless he has in his possession a current license or temporary license duly issued by the board under Subpart 2 of these rules.

B. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority as a registered respiratory therapist or certified respiratory therapist, nor shall he directly or indirectly identify or designate himself as a respiratory therapist or licensed respiratory therapist, nor use in connection with his name the letters "CRT" (Certified Respiratory Therapist), "RRT" (Registered Respiratory Therapist), or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is a registered respiratory therapist or a certified respiratory therapist or that the services provided by such person constitute respiratory care, unless such person possesses a current license or temporary license duly issued by the board under Subpart 2 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), LR 25:2224 (November 1999).

#### **§5507. Exemptions**

A. The prohibitions of §5505 of this Chapter shall not apply to a person employed exclusively by, or at an institution operated by the United States Government when acting within the course and scope of such employment.

B. The prohibitions of §5505 of this Chapter shall not apply to a person acting under and within the scope of a license issued by another licensing agency of the state of Louisiana.

C. The prohibitions of §5505 of this chapter shall not apply to a person pursuing a "course of study" leading to registry or certification in respiratory care at an institution whose program is accredited, recognized or approved by an

agency recognized by the Commission on Accreditation of Allied Health Education Programs and approved by the Louisiana State Board of Medical Examiners and who is designated by a title which clearly indicates his status as a student.

D. The prohibitions of §5507 of this Chapter shall not apply to a person not licensed as a respiratory therapist or in accordance with the provisions of these rules but who may be employed in a pulmonary laboratory or physician's office to administer treatment confined to that laboratory or office under the direction and immediate supervision of a licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999).

#### **§5509. Prohibitions**

A. A licensed respiratory therapist shall not:

1. undertake to perform or actually perform any activities as described in §5503, definition or "Respiratory care," except under the written prescription or verbal order of a physician and under his supervision;

2. administer any drugs or medications except as dispensed by a pharmacist and prescribed by a physician or dispensed by a physician; or

3. perform any surgical incisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999).

### **Subchapter C. Supervision of Students**

#### **§5511. Scope of Subchapter**

The rules of this Subchapter prescribe certain restrictions on and requirements for supervision of students pursuing a "course of study" as that term is defined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999).

#### **§5515. Supervision of Student**

A. A person pursuant to a "course of study" leading to registry or certification in respiratory care shall engage in the practice of respiratory care only under the supervision of a licensed respiratory therapist or a physician who actively practices respiratory care, as provided in this Section.

B. A licensed respiratory therapist or a physician who undertakes to supervise a student shall:

1. undertake to concurrently supervise not more than four students;

2. personally evaluate every patient prior to the provision of any respiratory care treatment or procedure by a student;

3. assign to a student only such respiratory care measures, treatments, procedures and functions as such licensed respiratory therapist or physician has documented

that the student by education and training is capable of performing safely and effectively;

4. provide continuous and immediate on-premises direction to and supervision of a student and be readily available at all times to provide advice, instruction, and assistance to the student and to the patient during respiratory care treatment given by a student;

5. not permit a student to perform any invasive procedure or any life-sustaining or critical respiratory care, including therapeutic, diagnostic or palliative procedures, except under the direct and immediate supervision, and in the physical presence of, the supervising therapist and/or physician; and

6. provide and perform periodic evaluation of every patient administered to by a student and make modifications and adjustments in the patient's respiratory care treatment plan, including those portions of the treatment plan assigned to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:748 (June 1993), LR 25:2224 (November 1999).

#### **Subchapter D. Grounds for Administrative Action**

##### **§5517. Causes for Administrative Action**

The board may refuse to issue or renew, or may suspend, revoke or impose probationary conditions and restrictions on the license or temporary license of any registered respiratory therapist or certified respiratory therapist, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR 25:2225 (November 1999).

##### **§5519. Causes for Action; Definitions; Unprofessional Conduct**

A. As used herein and in R.S. 37:3358, "unprofessional conduct" by a registered respiratory therapist or a certified respiratory therapist shall mean:

1. conviction of a crime or entry of a plea of guilty or *nolo contendere* to a criminal charge constituting a felony under the laws of the state of Louisiana, of the United States or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or *nolo contendere* to any criminal charge arising out of or in connection with the practice of respiratory care;

3. perjury, fraud, deceit, misrepresentation or concealment of material facts in obtaining a license to practice respiratory care;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive or misleading;

7. making or submitting false, deceptive or unfounded claims, reports or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetence;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of respiratory care practice in this state;

10. knowingly performing any act which in any way assists an unlicensed person to practice respiratory care, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm or corporation to induce the referral of patients to the registered respiratory therapist or certified respiratory therapist;

12. interdiction by due process of law;

13. inability to practice respiratory care with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice respiratory care with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of respiratory care as defined by the Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice respiratory care in that state or the revocation, suspension or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts or conditions practice in that state, or the surrender of a license, permit or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit or certificate;

17. violation of the code of ethics adopted and published by the American Association for Respiratory Care;

18. demonstrating a lack of "good moral character" as defined in §5503.A; or

19. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3351-3361.

B. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR 25:2225 (November 1999).

Delmar Rorison  
Executive Director

9911#014

## RULE

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

Disciplinary Procedures  
(LAC 46:LXXXV.101, 105, 106, 815, 816,  
1001, 1215, 1216, and 1401-1425)

The Louisiana Board of Veterinary Medicine hereby amends LAC 46:LXXXV.101, 105, 106, 815, 1001, and 1215 and adopts 46:LXXXV.816, 1216, and 1401-1425. These proposed changes pertain to disciplinary procedures and are offered in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarians

#### Chapter 1. Operations of the Board of Veterinary Medicine

#### §101. Information, Agency Office, Request for Rules or Action

A. - D. ...

E. Reports to Licensees. The board shall provide a regular report, which shall include, but not be limited to, notices of changes in policy, procedure, regulations, and/or statutes by the board or other governmental entities and dispositions of disciplinary cases. Other information deemed by the board to be pertinent in its mission of protecting the public health, safety, and welfare in the practice of veterinary medicine shall be printed and mailed to all licensees and other interested parties who have requested in writing to receive this report. The report shall be published not less than one time per fiscal year and may be published more frequently as the president of the board shall order.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 19:1328 (October 1993), LR 23:966 (August 1997), LR 25:2226 (November 1999).

#### §105. Appeals and Review

A. ...

B. Persons Aggrieved by a Decision of the Board

1. Any person aggrieved by a decision of the board may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. - 4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 19:345 (March 1993), LR 23:966 (August 1997), LR 23:1529 (November 1997), LR 25:2226 (November 1999).

#### §106. Disciplinary Proceedings

Any person against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1526 and/or 37:1531 and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §1401 et seq. of the board's rules.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), amended LR 23:967 (August 1997), LR 24:940 (May 1998), LR 25:2226 (November 1999).

#### Chapter 8. Registered Veterinary Technicians

#### §815. Appeals and Review

A. ...

B. Persons Aggrieved by a Decision of the Board

1. Any person aggrieved by a decision of the board, other than a holder of certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1544-1548, may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. A petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office located in Baton Rouge, Louisiana.

3. Upon receipt of such petition, the board then may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:26 (March 1990), amended LR 25:2226 (November 1999).

#### §816. Disciplinary Proceedings

Any registered veterinary technician against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1544-1548 and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §1401 et seq. of the board's rules.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2226 (November 1999).

## **Chapter 10. Rules of Professional Conduct**

### **§1001. Purpose and Scope**

A. The Rules of Professional Conduct shall govern the professional conduct of the members of the veterinary profession in the state of Louisiana. These rules of professional conduct shall be cumulative of all laws of the state of Louisiana relating to the professional conduct of veterinarians and to the practice of veterinary medicine in this state, and shall include the American Veterinary Medical Association's Principles of Veterinary Medical Ethics. In the event the Principles of Veterinary Medical Ethics contradict the Louisiana Veterinary Practice Act and/or the board's rules, the latter shall govern.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:228 (March 1990), amended LR 25:2227 (November 1999).

## **Chapter 12. Certified Animal Euthanasia Technicians**

### **§1215. Appeals and Review**

A. ...

B. Persons Aggrieved by a Decision of the Board

1. Any certified animal euthanasia technician aggrieved by a decision of the board, other than a holder of a certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1551 et seq. may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. A petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

3. Upon receipt of such petition, the board may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 25:2227 (November 1999).

### **§1216. Disciplinary Proceedings**

Any CAET against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1551 et seq. and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §1401 et seq. of the board's rules.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2227 (November 1999).

## **Chapter 14. Disciplinary Procedures**

### **§1401. Causes for Administrative Action**

The board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedure Act, LSA R.S.

49:950 et seq., may deny, revoke or suspend any license, temporary permit, or certification issued or applied for or otherwise discipline a licensed veterinarian, registered veterinary technician or certified animal euthanasia technician on a finding that the person has violated the Louisiana Veterinary Practice Act, any of the rules and regulations promulgated by the board, the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association, or prior final decisions and/or consent orders involving the licensed veterinarian, registered veterinary technician or certified animal euthanasia technician or applicant. Sometimes hereinafter in this Chapter, where the context allows, a licensed veterinarian, registered veterinary technician or certified animal euthanasia technician or applicant may be referred to as "person."

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2227 (November 1999).

### **§1403. Disciplinary Process and Procedures**

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Louisiana Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Veterinary Practice Act, the rules and regulations of the board, the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association, or prior Final Decisions and/or Consent Orders involving the veterinarian, registered veterinary technician or certified animal euthanasia technician or applicant and to determine the appropriate disciplinary action.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2227 (November 1999).

### **§1405. Initiation of Complaints**

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential and shall be sent to the board office. The investigating board member, with benefit of counsel, shall decide to investigate the charges or deny the charges. If the charges are denied, a letter of denial is prepared and forwarded to the complainant and the person accused of wrongdoing. If the investigating board member decides to investigate, the person shall be notified that allegations have been made that he may have

committed a breach of statute, rule and regulation, the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. The response is to be made to the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, and other pertinent information, if available, is reviewed, a determination by the investigating board member, with benefit of counsel, will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate the industry, the board through its investigating board member, may issue subpoenas to secure evidence of alleged violations of the Louisiana Veterinary Practice Act, any of the rules and regulations promulgated by the board, the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, or prior final decisions and/or consent orders involving the licensed veterinarian, registered veterinary technician or certified animal euthanasia technician or applicant.

D. "Counsel" referenced in this Chapter shall mean the board's General Counsel who will be assisting in the investigation and prosecution of an administrative action. Said counsel shall not provide any legal advices or act as legal counsel to the board or its members, other than the investigating board member, regarding a pending administrative action during the investigation, prosecution and resolution of such disciplinary action by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2227 (November 1999).

#### **§1407. Informal Disposition of Complaints**

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For complaints less serious, the investigating board member may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be closed. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

##### **2. Informal Conference**

a. The investigating board member may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out at the conference may later be used in a formal hearing. Board members, other than the investigating board member, may not be involved in informal conferences.

3. Settlement. An Agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board.

The nature of the offense alleged and the evidence before the board must be considered.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2228 (November 1999).

#### **§1409. Formal Hearing**

A. The board has the authority, granted by LSA R.S. 37:1511 et seq., to bring administrative proceedings against persons to whom it has issued a license, temporary permit or certification or any applicant requesting a license, temporary permit or certification. The person has the right to appear and be heard, either in person or by counsel; the right of notice; a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board receives a complaint alleging that a person has acted in violation of the Louisiana Veterinary Practice Act, the rules and regulations of the Board, or the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the investigating board member or board attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than the investigating board member, may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the board's correspondence concerning the complaint;
- iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary; or
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A sworn complaint is filed, charging the violation of one or more of the provisions of the Louisiana Veterinary Practice Act, the rules and regulations promulgated thereto, the American Veterinary Medical Association's Principles of Veterinary Medical Ethics, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least twenty days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It



is the person's obligation to keep the board informed of his whereabouts.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to ten days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

i. a subpoena requiring a person to appear and give testimony; and

ii. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the Board, but not less than seventy-two hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding;

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person;

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary; and/or

vi. other items or things allowed into evidence by the Louisiana Evidence Code or applicable statutory law or jurisprudence.

d. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows:

a. the board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take;

b. the person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded;

c. the board's representative presents the case against the person;

d. the person, or his attorney, cross-examines;

e. the person presents evidence;

f. the board's representative cross-examines;

g. the board's representative rebuts the person's evidence;

h. both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

11.a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

ii. all documents and/or other materials accepted as evidence at the hearing;

iii. statements of matters officially noticed;

iv. notices required by the statutes or rules; including notice of the hearing;

v. affidavits of service or receipts for mailing or process or other evidence of service;

vi. stipulations, settlement agreements or consent orders, if any;

vii. records of matters agreed upon at a prehearing conference;

viii. reports filed by the hearing officer, if one is used;

ix. orders of the board and its final decision;

x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

xi. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

b. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

12.a. The decision of the board shall be reached according to the following process:

i. determine the facts at issue on the basis of the evidence submitted at the hearing;

ii. determine whether the facts in the case support the charges brought against the person; and

iii. determine whether charges brought are in violation of the Louisiana Veterinary Practice Act, rules and regulations of the board, and/or the American Veterinary Medical Association's Principles of Veterinary Medical Ethics.

b. Deliberation

i. The board will deliberate in closed session.

ii. The board will vote on each charge as to whether the charge has been supported by the evidence. The standard will be "preponderance of the evidence."

iii. After considering each charge, the board will vote on a resolution to dismiss the charges, deny, revoke or suspend any license, temporary permit or certification issued or applied for or otherwise discipline a person or applicant. An affirmative vote of a majority of the quorum of the board shall be needed to deny, revoke, or suspend any license, temporary permit or certification issued or applied for in accordance with the provisions of this Chapter or otherwise discipline a person or applicant. The investigating board member shall not be involved in or present during deliberation, nor shall he be included in the quorum or allowed to vote on the outcome of the proceeding.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusions of law determined as a result of the hearing, and will be issued by the board in accordance with applicable statutory authority. The party is notified by mail of the final decision of the Board.

d. In addition to the disciplinary action or fines assessed by the board against a licensed veterinarian or temporary permittee, the board may assess all costs incurred in connection with the proceedings, including but not limited to investigators', stenographers', attorney's fees and court costs.

e. With regards to a registered veterinary technician, the board may, as a probationary condition or as a condition of the reinstatement of any certification suspended or revoked hereunder, require the holder to pay all costs of the Board proceedings, including investigators', stenographers', secretaries', attorney's fees and court costs.

f. With regards to a certified animal euthanasia technician, the Board may require the holder to pay all costs of the Board proceedings, including investigators', stenographers', secretaries', attorney's fees, and court costs.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a stay of execution of a sanction for a period of time against an applicant or licensee, temporary permittee or holder of a certificate. Such order, without a stay of execution, shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees, temporary permittees or holders of certificates of any action taken against him and may make public its orders and judgment in such manner and form as allowed by law.

14.a. The board may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within ten days

after notification of the Board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following:

i. the board's decision is clearly contrary to the law and evidence;

ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;

iii. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or

iv. it would be in the public interest to further consider the issues and the evidence.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2228 (November 1999).

**§1411. Consent Order**

An order involving a type of disciplinary action may be made to the board by the investigating board member with the consent of the person. To be accepted, a consent order requires formal consent of a majority of the quorum of the board. Such quorum does not include the investigating board member. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. A proposed consent order may be rejected by the board in which event a formal hearing will occur. The consent order, if accepted by the board, is issued by the board to carry out the parties' agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2230 (November 1999).

**§1413. Withdrawal of a Complaint**

If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the investigating board member judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2230 (November 1999).

**§1415. Refusal to Respond or Cooperate with the Board**

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the denial, revocation or suspension of his license, temporary permit or certification, or application for licensure, temporary permit or certification, or otherwise issue appropriate disciplinary sanction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2230 (November 1999).

**§1417. Judicial Review of Adjudication**

Any person whose license, temporary permit or certification, or application for licensure, temporary permit or certification, has been denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within thirty days after the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2231 (November 1999).

**§1419. Appeal**

A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2231 (November 1999).

**§1421. Reinstatement of Suspended or Revoked License**

Any person whose license is suspended or revoked may, at the discretion of the board, be relicensed or reinstated at any time without an examination by majority vote of the board on written application made to the board showing cause justifying relicensing or reinstatement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2231 (November 1999).

**§1423. Declaratory Statements**

The Board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Veterinary Practice Act, LSA R.S. 37:1511 et seq., the rules and regulations promulgated by the board and/or the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association.

A. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

1. the name and address of the petitioner;
2. specific reference to the statute, rule and regulation, or the American Veterinary Medical Association's Principles of Veterinary Medical Ethics to which the petitioner relates; and

3. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or provision of the American Veterinary Medical Association's Principles of Veterinary Medical Ethics by its potential application to him in which he is uncertain of its effect.

B. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

C. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2231 (November 1999).

**§1425. Injunction**

A. The board or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit.

B. If the court finds that the person is violating, or is threatening to violate, this Chapter it shall enter an injunction restraining him from such unlawful acts.

C. The successful maintenance of an action based on any one of the remedies set forth in this rule shall in no way prejudice the prosecution of an action based on any other of the remedies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2231 (November 1999).

Kimberly B. Barbier  
Administrative Director

9911#055

**RULE**

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

Licensure and Examinations  
(LAC 46:LXXXV.301 and 303)

The Louisiana Board of Veterinary Medicine hereby amends LAC 46:LXXXV.301 and 303 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 3. Licensure Procedures**

**§301. Applications for Licensure**

A. ...

B. In addition to the above requirements, the board may also require that any applicant furnish the following information:

1. ...

2. a copy of the applicant's diploma from a veterinary medical school or college accredited or approved by the American Veterinary Medical Association;

3. - 8. ...

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 10:464 (June 1984), LR 16:224 (March 1990), LR 19:343 (March 1993); LR 23:964 (August 1997), LR 25:2231 (November 1999).

**§303. Examinations**

- A. ...
  - 1. - 3. ...
  - 4. A candidate for examination must be:
    - a. a graduate of a school or college of veterinary medicine accredited or approved by the American Veterinary Medical Association; or
    - b. - c. ...
- B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 19:344 (March 1993), LR 19:1327 (October 1993), LR 23:964 (August 1997), LR 25:2232 (November 1999).

Kimberly B. Barbier  
Administrative Director

9911#060

**RULE**

**Department of Public Safety and Corrections  
Gaming Control Board**

**Accounting Regulations  
(LAC 42:XIII.Chapter 27)**

The Gaming Control Board hereby adopts amendments to LAC 42:XIII.2701, 2703, 2705, 2707, 2709, 2711, 2713, 2716 2717, 2719, 2721, 2723, 2724, 2725, 2727, 2729, 2730, 2731, 2735, 2736, 2737, 2739, 2741, 2743, 2744, 2745, and 2747, in accordance with R.S. 27:14 and 24 and the Administrative Act, R.S. 49:950 et seq.

[Note: The amendments to LAC 42:XIII.2701 et seq. were published as a notice of intent on February 20, 1999. Public comment was requested and a hearing was held on April 20, 1999. Changes to the proposed rules were approved by the Gaming Control Board at a public meeting held on July 20, 1999 pursuant to the provisions of R.S. 49:968 H. 2. A report, prepared pursuant to R.S. 49:968 D. (1) (b), was delivered to the oversight committees on July 26, 1999 and contained copies of the proposed changes and final version of the proposed rules. On September 21, 1999 the Gaming Control Board adopted the proposed rules as amended subsequent to publication of the notice of intent. By error the rules submitted to the Office of the State Register for publication in the October 20, 1999 issue of the Louisiana Register did not contain the changes approved by the Gaming Control Board on July 20, 1999, but rather replicated the original notice of intent published on February 20, 1999. Accordingly, the rule published in Vol. 25, No. 10, beginning at page 1876 shall be considered null, void and without effect and the following rules, amending LAC 42:XIII.2701 et seq. shall become effective upon the date of publication hereof.]

**Title 42**

**LOUISIANA GAMING**

**Part XIII. Riverboat Gaming**

**Chapter 27. Accounting Regulations**

**§2701. Procedure for Reporting and Paying Gaming Revenues and Fees**

A. All Daily Fee Remittance Summary reports, together with all necessary subsidiary schedules, required under the Act shall be submitted to the Division no later than forty-eight hours from the end of the licensee's specified gaming day. For reporting purposes, licensee's specified gaming day (beginning time to ending time) shall be submitted in writing to the Division prior to implementation. For licensees which offer 24-hour gaming, gaming day is the 24-hour period by which the casino keeps its books and records for business, accounting, and tax purposes. Each licensee shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted to the Division ten (10) days prior to implementation of the change. All license and franchise fees related thereto must be electronically transferred to the State's designated bank account as directed by the Division. In addition to any other administrative action, civil penalties, or criminal penalties, licensees who are late in electronically transferring these fees may retroactively be assessed late penalties of fifteen percent (15%) 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 fees at the daily rate of .00041 multiplied by the amount of unpaid fees 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2232 (November 1999).

**§2703. Accounting Records**

A. The following requirements shall apply throughout all of Chapter 27.

1. Each licensee, 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 fees under the Act. Each licensee shall keep records of all transactions impacting the financial statements of the licensee, 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 licensee 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 casino 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 licensee 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 admissions to gaming excursions by excursion and day, 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 by table for each table game, and to reflect drop, win, and the percentage of win to drop for each type of table game, for each day or other accounting periods approved by the Division and individual and game records reflecting similar information for all other games, including slots;

d. slot analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages;

e. for each licensee, the records required by the licensee's system of internal control;

f. journal entries and all workpapers (electronic or manual) prepared by the licensee 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 an owner's business shall be expensed at an amount based upon the full cost of such services or items to the licensee;

h. detailed gaming chip and token perpetual inventory records which identify the purchase, receipt, and destruction of gaming chips and 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 gaming chips or 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 licensee shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its gaming operations.

4. If a licensee fails to keep the records used by it to calculate gross and net gaming revenue, or if the records kept by the licensee to compute gross and net gaming revenue 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2232 (November 1999).

## **§2705. Records of Ownership**

A. - A.10. ...

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 five percent (5%) or more of the outstanding capital stock of any class of stock.

B. Each limited liability company licensee 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 licensee 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 licensee 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2233 (November 1999).

## **§2707. Record Retention**

A. Upon request, each licensee shall provide the Division, at a location approved by the Division, with the records required to be maintained by Chapter 27. Each licensee shall retain all such records for a minimum of five (5) 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 (5) 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2233 (November 1999).

#### **§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 licensees shall prepare their financial statements in accordance with this chart or in a similar form that reflects the same information.

B. Each licensee 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 60 days following the end of each quarter.

C. Each licensee 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 licensee with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within ten (10) 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2234 (November 1999).

#### **§2711. Audited Financial Statements**

A. Each licensee 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 licensee'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 licensee's business year as approved by the Division. If the licensee or a person controlling, controlled by, or under common control with the licensee owns or operates food, beverage or retail facilities or operations on the riverboat, or any related shore terminals, 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 licensee.

D. Each licensee 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 licensee may select the independent CPA with the Division's approval. Should the independent CPA previously engaged as the principal accountant to audit the licensee's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee shall file a report with the Division within ten (10) days following the end of the month in which the event occurs, setting forth the following:

1. - 2. ...
3. whether the principal accountant's report on the financial statements for any of the past two (2) 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 licensee and addressed to the Division stating whether he agrees with the statements made by the licensee in response to this Section of the licensee'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 licensee shall submit to the Division two (2) originally signed copies of its audited financial statements and the applicable CPA's letter of engagement not later than one-hundred twenty (120) days after the last day of the licensee'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 twenty percent (20%), the licensee or former licensee shall, not later than one hundred twenty (120) days after the event, submit to the Division two (2) 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 twenty percent (20%) occurs within one-hundred twenty (120) days after the end of the business year for which a statement has not been submitted, the licensee may submit statements covering both the business year and the final period of business.

G. If a licensee changes its fiscal year, the licensee 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 one-hundred twenty (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 licensee's financial statements must be submitted within one-hundred twenty (120) days after the end of the licensee's business year. The CPA shall incorporate the guidelines established by the Division into current procedures for preparing the reports.

I. Each licensee shall engage an independent CPA to conduct a quarterly audit of the net gaming proceeds. Two (2) signed copies of the auditor's report shall be forwarded to the Division not later than sixty (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 licensee or the licensee's independent CPA, through the licensee, 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2234 (November 1999).

### **§2713. Cash Reserve and Bonding Requirements; General**

A. Each licensee 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:

GAMES: All Table Games

Number of games X table limit average X \$50 =  
\* \* \*

B. For the purposes of this Section, *table limit average* shall be defined as the sum of the highest table limit set for each and all tables during the calendar month, divided by the total number of tables. All tables shall be included in the calculation whether they are opened or closed.

C. Each licensee 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 licensee receives the Division's written approval.

D. Each licensee shall submit monthly calculations of its cash reserve to the Division no later than thirty (30) days following the end of each month.

E. 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 (50%) of the total cash reserve requirement. Any changes to the initial computation submitted to the Division shall require the licensee 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.)

F. Pursuant to Louisiana R.S. 27:52.2.b, each licensee 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 fees, 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 licensee 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2235 (November 1999).

### **§2715. Internal Control; General**

A. Each licensee shall establish and implement beginning the first day of operations administrative and accounting procedures for the purpose of determining the licensee's liability for revenues and fees under the Act and for the purpose of exercising effective control over the licensee's internal fiscal affairs. Each licensee 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. - 2. ...
3. transactions are performed only in accordance with the licensee's internal controls as approved by the Division;
4. ...
5. access to assets is permitted only in accordance with the licensee's internal controls as approved by the Division;
6. - 7. ...
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. table drop release keys;
- e. table drop contents keys;
- f. count room keys;
- g. high level Caribbean Stud key;
- h. vault entrance key;
- i. CCOM (processor) keys;
- j. card and dice storage keys;
- k. slot office storage box keys;
- l. dual lock box keys;
- m. change bank/booth keys;
- n. secondary chip access keys;
- o. weigh calibration key;

10. all other sensitive keys not listed in §2715.A.9 are listed in the licensee's internal controls and are controlled as prescribed therein;

11. all damaged sensitive keys are disposed of timely and adequately. The licensee 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 licensee's internal controls as approved by the Division;

13. only transparent trash bags are utilized in restricted areas.

B. Each licensee 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 licensee 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 licensee'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 licensee or a licensed owner attesting that the system satisfies the requirements of this Section;

6. other information as the Division may require.

C. The licensee may not implement its initial system of internal control procedures unless the Division, in its sole discretion, determines that the licensee's proposed system satisfies §2715.A., and approves the system in writing. In addition, the licensee must engage an independent CPA to review the proposed system of internal control prior to implementation. The CPA shall forward two (2) 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 licensee, the parent company of the licensee, 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 (5) years.

E. Each licensee shall require the independent CPA engaged by the licensee for purposes of examining the financial statements to submit to the licensee two (2) originally signed copies of a written report of the continuing effectiveness and adequacy of the licensee's written system of internal control one hundred fifty (150) days after the end of the licensee'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 one hundred fifty (150) days after the end of the licensee's fiscal year, the licensee shall submit an originally signed copy of the CPA's report and any other correspondence directly relating to the licensee's system of internal control to the Division accompanied by the licensee'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 of betting at a race book; or adding any computerized system for monitoring slot machines or other games, or any other computerized equipment, the licensee 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 licensee'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 licensee's internal controls previously approved by the Division shall be submitted to the Division for prior written approval as provided in Chapter 29 of these rules.

H. If the Division determines that a licensee's administrative or accounting procedures or its internal controls do not comply with the requirements of this Section, the Division shall so notify the licensee in writing. Within thirty (30) days after receiving the notification, the licensee 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, all table game drops, tip box and slot drops, slot fills, fills and credits for table games, 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 licensee 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 licensee 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 (30) days. In the event that a patron has not paid a debt created under this Section within thirty (30) days, a holder of an owner's license shall not further extend credit to the patron while such debt is outstanding.

N. A licensee 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 licensee 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 (15) days of the end of each quarter.

P. Each licensee shall submit to the Division, on a quarterly basis, a report of all vendors who have received \$5,000 or more from the licensee during the previous quarter, or \$50,000 or more during the immediate past twelve (12) month period as payment for providing goods and/or services to the licensee. 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 licensee or person(s) acting on behalf of the licensee to each vendor during the previous (4) quarters. For each provider of professional services listed in this report, 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 amounts paid to each such provider by the licensee or any person(s) acting on behalf of the licensee 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 chips or 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 licensee 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2235 (November 1999).

#### **§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. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2237 (November 1999).

#### **§2717. Internal Controls; Table Games**

A. Table Games Fill and Credit Slip Requirements (Computerized and Manual). Each licensee shall utilize fill/credit slips to document the transfer of chips and tokens to and from table games. All table game fill/credit slips shall be safeguarded in their distribution, use, and control as follows:

1. Fill/credit slips shall, at a minimum, be in triplicate form, in a continuous numerical series, pre-numbered by the computer 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.

a. Each slip shall be clearly and correctly marked *Fill* or *Credit*, whichever applies, and shall contain the following:

- i. correct date and time;
- ii. shift;
- iii. table number;
- iv. game type;
- v. amount of fill/credit by denomination and in total;
- vi. sequential slip number (manual slips may be issued in sequential order by location); and
- vii. identification code of the requestor, in stored data only.

b. All fill slips shall be distributed as follows.

i. One part shall be transported to the pit with the fill and, after the appropriate signatures are obtained, deposited in table drop box by the dealer/boxperson. The part that is placed in the drop box shall be of a different color for fills than that used for credits;

ii. One part shall be retained in the cage for reconciliation of the cashier bank;

iii. One part shall be forwarded to accounting or retained internally within the computer. This computer copy shall be known as the 'restricted copy' and shall not be accessible to cage or pit employees. The stored data shall not be susceptible to change or removal by cage or pit personnel after preparation of a fill, with the exception of voids. Accounting shall be given access to the restricted copies of the fill slips.

c. All credit slips shall be distributed as follows.

i. One part shall be retained in the cage for reconciliation of the cashier bank upon completion of the credit transaction;

ii. One part shall be transported to the pit by the security officer who brought the chips, tokens, markers or monetary equivalents from the pit to the cage, and after the appropriate signatures are obtained, deposited in the table drop box by the dealer/boxperson. The part that is placed in the drop box shall be of different color for credits than that used for fills.

iii. One part shall be forwarded to accounting or retained internally within the computer. This computer copy shall be known as the *restricted copy* and shall not be accessible to cage or pit employees. The stored data shall not be susceptible to change or removal by cage or pit personnel after preparation of a credit, with the exception of voids. Accounting shall be given access to the restricted copies of the credit slips.

2. Processed slips shall be signed by at least the following individuals to indicate that each has counted the amount of the fill/credit and the amount agrees with the slip:

a. cashier who prepared the slip and issued the fill or received the items transferred from the pit;

b. Runner, who shall be a gaming employee independent of the transaction, who carried the chips, tokens, or monetary equivalents to or from the table;

c. dealer/boxperson who received the fill or had custody of the credit prior to the transfer; and

d. pit supervisor who supervised the fill/credit.

3. Fill/credit 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 shall print his employee number and sign his name on the voided slip. A brief statement of why the void was necessary shall be written on the face of all copies. The pit or cage supervisor who approves the void shall print his employee number and sign his name and shall print or stamp the date and time the void is approved. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

4. Access to slips and slip processing areas shall be restricted to authorized personnel.

a. All unissued fill/credit slips shall be securely stored under the control of the accounting or security department.

b. All unissued fill/credit slips shall be controlled by a log which the accounting department shall agree to fill or credit slips purchase documents monthly.

5. The accounting department shall account for all slips daily and investigate all missing slips within ten (10) days. The investigation shall be documented and the documentation retained for a minimum of five (5) years.

B. Computerized Table Game Fill Procedures. Computerized Table Fill transactions shall be:

1. initiated by a pit supervisor and the order acknowledged by a cage cashier prior to the issuance of a fill slip and transportation of the chips, tokens, and monetary equivalents. The pit supervisor or pit clerk shall process the order for fill by entering the following information into the computer:

- a. correct date and time (computer may automatically generate);
- b. shift;
- c. table number;
- d. game type;
- e. amount of fill by denomination and in total; and
- f. identification code of preparer, in stored data only;

2. transported and deposited on the table only when accompanied by a legitimately executed fill slip;

3. physically transported from the cage by a gaming employee from a department independent of the transaction;

4. broken down or verified by the dealer/boxperson in public view before the dealer/boxperson places the fill in the tray;

5. acknowledged by the pit clerk or cage personnel via computer upon completion of the fill.

6. finalized by the cage cashier who shall complete the transaction via computer entry.

C. Cross-fills. Cross-fills between tables shall not be permitted.

D. Computerized Table Game Credit Procedures. Computerized Table Credit transactions shall be:

1. initiated by a pit supervisor and the order acknowledged by a cage cashier prior to the issuance of a credit slip and transportation of the chips, tokens, and monetary equivalents. The pit supervisor or pit clerk shall

process the order for credit by entering the following information into the computer:

- a. correct date and time (computer may automatically generate);
- b. shift;
- c. table number;
- d. game type;
- e. amount of credit by denomination and in total;

and

f. identification code of preparer, in stored data only;

2. broken down or verified by the dealer/boxperson in public view before the dealer/boxperson places the credit in racks for transfer to the cage;

3. transacted and transferred from the table to the cage only when accompanied by a legitimately executed credit slip;

4. physically transported from the table by a gaming employee from a department independent of the transaction;

5. acknowledged by the pit clerk or cage personnel via computer upon completion of the credit.

6. finalized by the pit clerk or cage cashier who shall complete the transaction via computer entry.

E. Alternate Internal Control Procedures for Non-Computerized Table Games Transactions. For any non-computerized table games systems, alternate documentation and/or procedures which provide at least the level of control required by the above standards for fills and credits will be acceptable. Such procedures must be enumerated in the licensee's internal controls and approved by the Division.

F. Table Games Inventory Procedures. All table games shall be counted each gaming day simultaneously by a dealer/boxperson and a pit supervisor, or two pit supervisors. The count shall be conducted at the end of the gaming day except for tables which are counted and closed before the end of the gaming day. These tables do not have to be recounted at the end of the gaming day if they remained closed. At the beginning and end of each gaming day, each table's chip, token, and coin inventory shall be counted and recorded on a table inventory form. Additionally, tables which have remained closed after crediting the entire inventory back to the cage will be exempt from conducting a daily count; however, the zero balance shall be documented in the table games paperwork for each day that they maintain a zero balance.

1. Table inventory forms shall be prepared, verified and signed by the dealer/boxperson and a pit supervisor, or two pit supervisors.

2. If the table banks are maintained on an imprest basis, a final fill or credit shall be made to bring the bank back to par.

3. If final fills are not made, beginning and ending inventories shall be recorded on the master game sheet for win calculation purposes.

4. Table inventory forms shall be placed in the drop box by someone other than a pit supervisor.

#### G. Credit Procedures in the Pit

1. 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 on the remaining balance authorized.

2. ...

3. Amount of credit extended in the pit shall be communicated to the cage or another independent source with the amount documented to update the manual and/or computerized system within a reasonable time subsequent to each issuance.

4. The following information shall be maintained either manually or in the computer system:

a. the signature or initials of the individual(s) approving the extension of credit (unless such information is contained elsewhere for each issuance);

b. the name of the individual receiving the credit;

c. the date and shift granting the credit;

d. the table on which the credit was extended;

e. the amount of credit issued;

f. the marker number;

g. the amount of credit remaining after each issuance or the total credit available for all issuances;

h. the amount of payment received and nature of settlement (e.g., credit slip number, cash, chips, etc.); and

i. the signature or initials of the individual receiving payment/settlement.

5. Marker preparation shall be initiated and other records updated within approximately one hand of play following the initial issuance of credit to the player.

6. All credit extensions shall be initially evidenced by marker buttons which shall be displayed on the table in public view and placed there by supervisory personnel.

7. Marker buttons shall be removed only by the dealer or boxperson employed at the table upon completion of a marker transaction.

8. 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:

a. original, maintained in the pit until settled or transferred to the cage;

b. payment slip, sent immediately to the cage; accompanied by the original and a transfer slip; or maintained in the pit until:

i. the marker is paid, including partial payments; at which time it shall be placed in the drop box;

ii. the end of gaming day; at which time it shall be sent immediately to the cage; accompanied by the original and a transfer slip;

c. issue slip, inserted into the appropriate table drop box when credit is extended or when the player has signed the original.

9. The original marker shall contain at least the following information:

a. preprinted number;

b. player's name and signature;

c. date; and

d. amount of credit issued.

10. The issue slip or stub shall include the same preprinted number as the original, the table number, date and time of issuance, and amount of credit issued. The issue slip

or stub also shall include the signature of the individual extending the credit, and the signature or initials of the dealer at the applicable table, unless this information is included on another document verifying the issued marker.

11. The payment slip shall include the same preprinted number as the original. When the marker is paid in full in the pit, it shall also include the table number where paid, date and time of payment, nature of settlement (cash, chips, etc.) and amount of payment. The payment slip shall also include the signature of a pit supervisor acknowledging payment, and the signature or initials of dealer/boxperson receiving payment, unless this information is included on another document verifying the payment of the marker.

12. The pit shall notify the cage via computer when the transaction is completed.

13. Markers (computer-generated and manual) that are voided shall be clearly marked *Void* across the face of all copies. The supervisor who approves the void shall print his employee number and sign his name, print or stamp the date and time the void is approved, and print the reason for the void. All copies of the voided marker shall then be forwarded to accounting for accountability and retention for a minimum of five (5) years.

14. Marker documentation shall be inserted in the drop box by the dealer/box person at the table.

15. When partial payments are made in the pit, a new marker shall be completed reflecting the remaining balance and the marker number of the marker originally issued.

16. When partial payments are made in the pit, the payment slip of the marker which was originally issued shall be properly cross-referenced to the new marker number and inserted into the drop box.

17. The cashier's cage or another independent source shall be notified when payments (full or partial) are made in the pit so that cage records can be updated for such transactions. Notification shall be made no later than when the patron's play is completed or at shift end, whichever is earlier.

18. 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.

19. 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 (10) days of such occurrence.

20. When markers are transferred to the cage, marker transfer slips shall be utilized and such documents shall include, at a minimum, the date, time, shift, marker number(s), table number(s), amount of each marker, the total amount transferred, signature of pit supervisor releasing instruments from pit, and instruments at the cage.

21. Markers shall be transported to the cashier's cage by an individual who is independent of the marker issuance and payment functions (pit clerks may perform this function).

22. 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 order to determine that credit was not extended beyond thirty (30) days.

#### H. Nonmarker Credit Play

1. - 8. ...

9. Nonmarker credit extensions shall be settled at the end of each hand of play by the preparation of a marker, repayment of credit extended, or payoff of the wager.

I. Call Bets. Call bets shall be prohibited. A call bet is a wager made without chips, tokens, or cash.

J. Table Games Drop Procedures. The drop process shall be conducted at least once each gaming day according to a schedule submitted to the Division setting forth the specific times for such drops. Each licensee shall notify the Division of any changes to such schedules prior to the implementation of the change. Emergency drops which require removal of the table drop box require written notification to the Division within 24 hours. The drop process shall be conducted as follows.

1. All locked drop boxes shall be removed from the tables by an individual independent of the pit shift being dropped. Surveillance shall be notified when the drop process begins. The entire drop process shall be videotaped by surveillance. At least one surveillance employee shall monitor the drop process at all times. This employee shall record on the surveillance log the times that the drop process 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.

2. Upon removal from the tables, the drop boxes are to 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.

3. The transporting of drop boxes shall be performed by a minimum of two individuals, at least one of whom is a security officer.

4. Access to all drop boxes regardless of type, full or empty, shall be restricted to authorized members of the drop and count teams.

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and video taped by surveillance. At least one surveillance or internal audit employee shall monitor the count process at least one (1) randomly selected day per calendar week. This employee shall record any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

1. Count team members shall be:

- a. rotated on a routine basis. Rotation is such that the count team is not the same three individuals more than four days per week;
  - b. independent of transactions being reviewed and counted and the subsequent accountability of soft drop proceeds.
2. Soft count shall include:
- a. a test count of the currency counter prior to the start of each count;
  - b. the emptying and counting of each drop box individually, daily;
  - c. the recordation of the contents of each drop box on the count sheet in ink or other permanent form prior to commingling the funds with funds from other boxes;
  - d. the display of empty drop boxes to another member of the count team or to surveillance;
  - e. the comparison of table numbers scheduled to be dropped to a listing of table numbers actually counted, as reflected on the Master Gaming Report, to ensure that all table game drop boxes are accounted for during each drop period;
  - f. the correction of information originally recorded by the count team on soft count documentation 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;
  - g. the signature of all members of the soft count team on the count sheet attesting to the accuracy of table games drop after the count sheet has been reconciled to the currency;
  - h. the transfer of all monies and monetary equivalents that were counted to the cage cashier who is independent of the count team or to an individual independent of the revenue generation and the count process for verification. This individual certifies by signature as to the accuracy of the monies delivered and received from the soft count team; if a pass-through window between the count room and the vault is not utilized, transfer of monies shall be accomplished in a locked transport cart;
  - i. the delivery of the count sheet, with all supporting documents, promptly to the accounting department by a count team member. Alternatively, it may be adequately secured (e.g., locked in a container to which only accounting personnel can gain access) until retrieved by the accounting department;
  - j. access to drop boxes, full or empty, shall be restricted to authorized members of the drop and count teams;
  - k. access to the count room during the count 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 count room and shall contain the following information:
    - i. name of each person entering the count room;
    - ii. reason each person entered the count room;
    - iii. date and time each person enters and exits the count room;
    - iv. date, time and type of any equipment malfunction in the count room; and

- v. a description of any unusual events occurring in the count room.

3. Accounting/Auditing shall perform the following functions:

- a. match the original and first copy of the fill/credit slips;
- b. match orders for fills/credits to the fill/credit slips;
- c. examine fill and credit slips for correctness and recordation on the Master Gaming Report;
- d. trace or record pit marker issue and payment slips to the Master Gaming Report by the count team, unless other procedures are in effect which assure that issue and payment slips were placed into the drop box in the pit;
- e. examine and trace or record the opening/closing table and marker inventory forms to the Master Gaming Report;
- f. review accounting exception reports for the computerized table games on a daily basis for propriety of transactions and unusual occurrences. Documentation of the review and its results shall be retained for five (5) years.

L. Table Games Key Control Procedures. The keys used for table game drop boxes and soft count keys shall be controlled as follows.

1. Drop box release keys shall be maintained by a department independent of the pit department. Only the person authorized to remove drop boxes from the tables shall be allowed access to the release keys. Count team members may have access to the release keys during the soft count in order to reset the drop boxes. Persons authorized to remove the table game drop boxes are precluded from having access to drop box contents keys. The physical custody of the keys needed for accessing full drop box contents requires involvement of persons from three separate departments. The involvement of at least two individuals independent of the cage department is required to access empty drop boxes.
2. Drop box storage rack keys shall be maintained by department independent of the pit department. Someone independent of the pit department shall be required to accompany such keys and observe each time drop boxes are removed from or placed in storage racks. Persons authorized to obtain drop box storage keys shall be precluded from having access to drop box contents keys with the exception of the count team.
3. Drop box contents keys shall be maintained by a department independent of the pit department. Only count team members are allowed access to the drop box contents keys. This control is not applicable to emergency situations which require drop box access at other than scheduled count times. At least three persons from separate departments, including management, must participate in these situations. The reason for access must be documented with the signatures of all participants and observers.
4. The issuance of soft count room keys and other count keys shall be witnessed by two gaming employees, who shall be from different departments. Neither of these two employees shall be members of the soft count team.
5. All duplicate keys shall be maintained and issued in a manner which provides the same degree of control over drop boxes as is required for the original keys.
6. Sensitive keys shall not be removed from the vessel unless to an extension of the vessel as previously approved

by the Division. Access to the keys addressed in this Section 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 videotape of the log-in process shall be retained for thirty (30) days.

M. Security of Cards and Dice. Playing cards and dice, not yet issued to the pit, shall be maintained in a secure location to prevent unauthorized access and reduce the possibility of tampering. Perpetual inventory records of the card and dice inventory are to be maintained according to parameters established by §4321 and §4325.

N. Supervisory Controls. Pit supervisory personnel with authority equal to or greater than those being supervised shall provide supervision of all table games.

O. Table Games Records. Each licensee shall maintain records and reports reflecting drop, win and drop hold percentage by table and type of game by day, cumulative month-to-date, and cumulative year-to-date. The reports shall be presented to and reviewed by management independent of the pit department on at least a monthly basis. The independent management shall investigate any unusual statistical fluctuations with pit supervisory personnel. At a minimum, investigations are performed for all statistical percentage fluctuations from the base level for a month in excess of plus or minus three percentage points. The *base level* is defined as the licensee's statistical win to statistical drop percentage for the previous business year. The results of such investigations are documented in writing and maintained for at least five (5) years by the licensee.

P. Accounting and MIS Functions. Accounting and MIS personnel who perform table game computer functions shall be adequately trained.

#### 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, or transaction logs.

#### 2. Access to Software/Hardware

a. MIS shall establish Security Groups based on each employee's job requirements. These Groups will determine the access level of the employee. This information shall be maintained (by MIS) which includes the employee's name, position, identification number, and 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 (5) 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. Computer Control

a. The pit credit system shall be secured, such that only authorized users can access it.

b. The delete option within an individual program shall be secured, such that only authorized users can execute it, i.e., delete a record.

c. The licensee shall change passwords periodically, as specified in the licensee's internal controls, to ensure security against false entry by unauthorized personnel.

d. The *secured copies* and the necessary documents shall be retained for five (5) years.

e. The Division shall have access to all information pertaining to table games (e.g., restricted copies of slips so accuracy can be verified).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2237 (November 1999).

#### §2719. Internal Controls; Handling of Cash

A. Each gaming employee, owner, or licensee 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 lock box in the table or, in the case of a cashier, in the appropriate place in the cashiers' cage, or on those games which do not have a lock box or on poker tables, in an appropriate place on the table, in the cash register, or other repository approved by the Division.

B. No cash wagers shall be allowed to be placed at any gaming table. Such cash shall be converted to chips or tokens prior to acceptance of a wager. All wagers other than those made with the licensee's approved chips and tokens are expressly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2242 (November 1999).

#### §2721. Internal Controls; Tips or Gratuities

A. - C.1 ...

2. accounted for by a recorded count conducted by randomly selected dealer and a randomly selected employee who is independent of the tokens being counted, excluding the employees referenced in §2721.A;

3. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period,

with a distribution approved by the Division. Tips or gratuities from this pool shall be deposited into the licensee's payroll account. Distributions to dealers from this pool shall be made following the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes; and

4. ...

a. Each dealer shall have a locked transparent box that has been marked with their name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained by a poker room supervisor, hereinafter referred to as the keyholder.

b. - d. ...

f. The licensee shall maintain a minimum level of supervision over the poker room tables. Surveillance shall have the capabilities to monitor and shall continuously record open poker tables.

D. Upon receipt from a patron of a tip or gratuity, a dealer assigned to the gaming table shall extend his arm in an overt motion, and deposit such tip or gratuity in the transparent locked box reserved for such purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:1503 (August 1998), LR 25:2242

### §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 licensee'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 licensee 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 casino 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 licensee 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 casino shift manager.

I. Each licensee 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 licensee 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 licensee shall notify the Division at least five (5) days prior to implementing a change to this schedule, except in emergency situations. The Division reserves the right to deny a licensee'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 licensee 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 licensee'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 (2) 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.

i. 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:

i. at least two members of the count/wrap team shall count the final wrapped slot drop independently from each other;

ii. the above counts shall be recorded on a summary report;

iii. 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 (2 %) 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 (5) 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.

l. 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 licensee 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 (2%) 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 (30) days.

P. Sensitive keys shall not be removed from the vessel unless to an extension of the vessel as previously approved by the Division. 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 (30) 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 licensee 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 and shall be videotaped by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process

at least two (2) randomly selected days per calendar month. This employee shall record any exceptions or variations to established procedures observed during the count.

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 thirty (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 vessel unless to an extension of the vessel 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 thirty (30) days.

R. Computer Records. At a minimum, the licensee 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 (5) 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 (5) 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 ten (10) days. Document the investigation and retain the results for a minimum of five (5) 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 (5) 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 (5) 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 two percent (2%) or more per denomination between the weigh/count and wrap immediately. Document and maintain the results of such investigation for five (5) years;

8. compare ten percent (10%) 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 (5) 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 *current progressive jackpot amount*.

3. Each licensee 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 casino 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 licensee'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 licensee's contributions shall not be reported to the Division upon payout. Licensee's shall take their deductions, which are specified on the primary and secondary contribution reports from the manufacturer, on the fifteenth (15<sup>th</sup>) 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 licensee 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 licensee 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 licensee; and

b. shall be certified as an instructor by the manufacturer and/or a licensee's representative.

4. The licensee 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2242 (November 1999).

#### **§2725. Internal Controls; Poker**

A. Supervision shall be provided during all poker games by personnel with authority equal to or greater than those employees conducting the games.

B. Poker area transfers between table banks and the poker bank or casino cage must be authorized by a gaming supervisor and evidenced by the use of a lammer button or other means approved by the Division. Such transfers shall be verified by the poker area dealer and the runner. A lammer is not required if the exchange of chips, tokens, and/or currency takes place at the table.

C. The amount of the main poker area bank shall be counted, recorded and reconciled on a shift basis by two gaming supervisors or two cashiers, who shall attest to the amount counted by signing the check-out form.

D. At least once per gaming day the table banks shall be counted by a dealer and a gaming supervisor or two gaming supervisors and shall be attested to by signatures of those two employees on the check-out form. The count shall be recorded and reconciled at least once per day.

E. The procedure for the collection of poker drop boxes and the count of the contents thereof shall comply with the internal control standards applicable to the table game drop boxes.

F. Playing cards, both used and unused, shall be maintained in a secure location to prevent unauthorized access and reduce the possibility of tampering.

G. Any computer application(s) that provide internal controls comparable to that contained in this Section may be acceptable upon Division approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2251 (November 1999).

#### **§2727. Race Book**

A. - NN. ...

OO. The book's computerized summary of events/results report shall be traced to an independent source for five (5) percent of all races to verify the accuracy of starting times (if available from an independent source) and final results.

PP. - UU. ...

VV. The results of such investigations shall be documented in writing and maintained for at least five (5) years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2251 (November 1999).

#### **§2729. Internal Controls; Cage, Vault and Credit**

A. Each licensee shall have a main bank which will serve as the financial consolidation of transactions relating to all gaming activity. Individuals accessing casino 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 casino 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 (5) years.

C. ...

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 casino 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 licensee 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 licensee 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 licensee that extended gaming credit to the patron that the patron has previously paid substantially all of the debt to the other licensee and the licensee 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 1-5 for a patron who is not a resident of the United States, the licensee shall receive in writing, information from an agent or employee of the licensee 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, or document one of the credit checks set forth in Paragraphs 1-6.

M. In the case of third party checks for which cash, chips, or tokens have been issued to the patron or which were accepted in payment of another credit instrument, the licensee 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 (10) 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; and
4. amount of credit issued.

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, chips, 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 thirty (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 (10) days of such occurrence.

Y. All payments received on outstanding credit instruments shall be permanently recorded on the licensee'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 §2729.BB 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 §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 §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 casino 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 (3) 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 (5) 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2251 (November 1999).

#### **§2730. Exchange of Tokens and Chips**

A. A licensee may exchange a patron's tokens and chips issued by another licensee only for its own tokens and chips. A licensee shall not exchange tokens and chips issued by another licensee for cash. A licensee shall document the exchange in a manner approved by the Division.

B. The exchange shall occur at a single casino cage designated by the licensee in its internal controls and approved by the Division.

C. ...

D. All tokens and chips received by a licensee as a result of an exchange authorized by this Section shall be returned to the issuing licensee for redemption within thirty (30) days of the date the tokens or chips were received as part of an exchange unless the Division approves otherwise in writing. Both licensees shall document the redemption in a manner approved by the Division.

E. A licensee shall not accept tokens or chips issued by another licensee in any manner other than authorized in this Section. A licensee shall not knowingly accept as a wager any token or chip issued by another licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2254 (November 1999).

#### **§2731. Currency Transaction Reporting**

A. - D. ...

E. For each required Currency Transaction Report, a clear surveillance photograph of the patron shall be taken and attached to the licensee'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 licensee shall maintain and make available for inspection all copies of Currency Transaction Reports, with the attached photographs, for a period of five (5) years.

F. One (1) 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 fifteenth (15th) day after the date of the transaction.

G. ...

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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2254 (November 1999).

#### **§2735. Net Gaming Proceeds Computations**

A. ...

B. For each slot machine, net gaming 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 casino 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 licensee 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.

C. ...

D. If in any day the amount of net gaming proceeds is less than zero, the licensee may deduct the excess in the succeeding days, until the loss is fully offset against net gaming proceeds.

E. Slot machine meter readings from the drop process shall not be utilized to calculate net gaming proceeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2254 (November 1999).

#### **§2736. Treatment of Credit for Computing Net Gaming Proceeds**

A. Net gaming proceeds shall not include credit extended or collected by the licensee for purposes other than gaming. Net gaming proceeds shall include the amount of gaming credit extended to a patron when wagered.

B. Each licensee shall include in net gaming proceeds all or any portion of an unpaid balance on any credit instrument if the original credit instrument or a substituted credit instrument is not available to support the outstanding balance.

C. A licensee shall include in net gaming proceeds the unpaid balance of a credit instrument even if the licensee eventually settles the debt for less than its full amount. The settlement shall be authorized by a person designated to do so in the licensee's system of internal control, and a settlement agreement shall be prepared within ten (10) days of the settlement and the agreement shall include:

1. the patron's name;
2. the original amount of the credit instrument;
3. the amount of the settlement stated in words;
4. the date of the agreement;
5. the reason for the settlement;
6. the signatures of the licensee's employees who authorized the settlement; and
7. the patron's signature or in cases which the patron's signature is not on the settlement agreement, documentation which supports the licensee's attempt to obtain the patron's signature.

D. A licensee shall include in net gaming proceeds all money, and the net fair market value of property or services received by the licensee in payment of credit instruments unless the full dollar amount of the credit instrument was previously included in the calculation of net gaming proceeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2254 (November 1999).

**§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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2255 (November 1999).

**§2741. Petitions for Redetermination; Procedures**

A. A licensee filing a petition for redetermination with the Board shall serve a copy of the petition on the Division.

B. A licensee shall, within thirty (30) days after the petition is filed:

1. pay all fees, penalties, or interest not disputed in the petition and submit a schedule to the Division that contains its calculation of the interest due on non-disputed 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 thirty (30) days after service of the licensee's memorandum, file a memorandum

of points and authorities in opposition to the licensee's petition and shall serve a copy on the licensee. The licensee may, within fifteen (15) days after service of the Division's memorandum, file a reply memorandum.

D. The Division and the licensee 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 licensee 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2255 (November 1999).

**§2743. Claims for Refunds; Procedures**

A. A licensee filing a claim for refund with the Board shall serve a copy of the claim on the Division.

B. A licensee shall, within thirty (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 licensee'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 thirty (30) days after service of the licensee's memorandum, file a memorandum of points and authorities in opposition to the licensee's claim and shall serve a copy on the licensee. The licensee may, within fifteen (15) days after service of the Division's memorandum, file a reply memorandum.

D. The Division and the licensee 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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2255 (November 1999).

**§2744. Reserved.**

**§2745. Reserved.**

**§2747. Reserved.**

Hillary J. Crain  
Chairman

9910#016

## RULE

### Department of Public Safety and Corrections Gaming Control Board

Donations to Public Schools; Problem Gambling  
(LAC 42:III.117 and 118)

The Louisiana Gaming Control Board hereby adopts LAC 42:III.117 and 118 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 III. Gaming Control Board

#### Chapter 1. General Provisions

#### §117. Donations to Public Schools

A. The term "licensee" as used in this Section shall include all persons licensed pursuant to the provisions of the Gaming Control Law, R.S. 27:1 et seq. but shall not include establishments licensed to conduct video draw poker gaming operations as a restaurant, bar, lounge, hotel or motel. The term "permittee" as used in this Section shall include all persons permitted pursuant to the provisions of the Gaming Control Law, R.S. 27:1 et seq. but shall not include gaming employees or nongaming vendors.

B. No casino gaming operator, licensee or permittee shall offer to make donations or contributions to public, private or parochial elementary schools or youth groups without solicitation of the donation by the public, private or parochial elementary school or youth group.

C. No educational aid, clothing, recreational or amusement item or other article donated or otherwise provided by a casino gaming operator, licensee or permittee to any public, private or parochial elementary or secondary school shall contain a logo, symbol or language related to gaming or gambling or which bears the actual or commonly known name of the casino gaming operator, licensee or permittee.

D. No donations or contributions shall be made by a casino gaming operator, licensee or permittee to:

1. a public elementary or secondary school without prior written notification by the proposed donee or recipient to the school board having jurisdiction over the proposed donee or recipient;

2. a private or parochial elementary or secondary school without prior written notification by the proposed donee or recipient to the governing body of the proposed donee or recipient.

E. All donations and contributions made as provided in Subsection D shall be in compliance with all applicable school board or school governing body rules, regulations and policies concerning donations and contributions.

F. All donations or contributions made in conjunction with an "Adopt A School Program" shall be conducted in accordance and in compliance with all applicable school board or school governing body rules, regulations and policies concerning such programs, and other rules, regulations and policies concerning donations and contributions.

G. Failure of a casino gaming operator, licensee or permittee to comply with Subsections B through D or with the school board or school governing body rules, regulations or policies as provided in Subsections E and F shall

constitute a violation of these rules and subject the casino gaming operator, licensee or permittee to administrative action including but not limited to revocation, suspension or civil penalty.

H. A copy of this rule shall be provided to all school board and school governing bodies.

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 25:2256 (November 1999).

#### §118. Programs to Address Problem Gambling

A. As used in this section "licensee" means each person who is licensed or otherwise authorized to conduct gaming operations.

B. Each licensee shall post or provide in conspicuous places in or near gaming areas and areas where cash or credit is made available to patrons including cash dispensing machines written materials concerning the nature and symptoms of problem gambling and the toll-free telephone number of the Louisiana Problem Gambling Hot Line or similar entity approved by the board.

C. All licensees other than video draw poker establishments shall implement procedures and training for all employees who directly interact with gaming patrons in gaming areas. Such training shall, at a minimum, consist of information concerning the nature and symptoms of problem gambling behavior and assisting patrons in obtaining information about problem gambling programs. This Subsection shall not be construed to require employees of licensees to identify problem gamblers. Each licensee shall designate personnel responsible for maintaining the program and addressing the types and frequency of such training and procedures. Training programs conducted or certified by the Office of Alcohol and Drug Abuse are presumed to provide adequate training for the period certified.

D. Licensed video draw poker establishments shall comply with procedures and training requirements developed by the division and approved by the board.

E. Each licensee that engages in the issuance of credit, check cashing, or the direct mail marketing of gaming opportunities, shall implement a program containing the elements described below, as appropriate, that allows patrons to self-limit their access to the issuance of credit, check cashing, or direct mail marketing by that licensee. As appropriate, such program shall contain, at a minimum, the following:

1. the development of written materials for dissemination to patrons explaining the program;

2. the development of written materials for dissemination to patrons explaining the Excluded Persons provisions of R.S. 27:1 et seq. and the administrative rules of the board;

3. the development of written forms allowing patrons to participate in the program;

4. standards and procedures that allow a patron to be prohibited from access to check cashing, the issuance of credit, and the participation in direct mail marketing of gaming opportunities;

5. standards and procedures that allow a patron to be removed from the licensee's direct mailing and other direct marketing regarding gaming opportunities at that licensee's location; and

6. procedures and forms requiring the patron to notify a designated office of the licensee within 10 days of the patron's receipt of any financial gaming privilege, material or promotion covered by the program.

F. The chairman may request that any licensee submit any of the elements of the licensee's program described in Subsections B, C, and E to the board for review. If the board makes an administrative determination that the licensee's program does not adequately address the standards as set forth in Subsections B, C and E above, then the board may issue such a determination identifying the deficiencies and specifying a time certain within which such deficiencies must be corrected.

G. Failure by the licensee to establish the programs set forth in Subsections C and E, to comply with the procedures and training requirements established under Subsection D, or to cure a deficiency identified pursuant to Subsection F, shall constitute a violation of these rules, and may result in administrative action including but not limited to revocation, suspension or civil penalty.

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 25:2256 (November 1999).

Hillary J. Crain  
Chairman

9911#015

## RULE

### Department of Public Safety and Corrections Office of Motor Vehicles

License Plates, Registrations, and Related Matters  
(LAC 55:III.367, 381, 383, 385, 387, 389, 391, 393)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, hereby adopts rules pertaining vehicle registrations and related matters. The rules address the applicability of the Federal Driver Privacy Protection Act to vehicle registration records, and the collection of sales taxes in connection with the initial registration of certain commercial motor vehicles.

#### Title 55

#### PUBLIC SAFETY

#### Part III. Motor Vehicles

#### Chapter 3. License Plates

#### Subchapter B. Vehicle Registration License Tax

#### §367. Driver Privacy Protection Act

A. Every individual who is an applicant for a certificate of title, or a new or renewed motor vehicle registration, shall be given the opportunity to prohibit the disclosure of personal information as defined in LAC 55, Part III, Chapter 5, §553, Subchapter B, by completing the Department's approved form, and submitting the form to the Department as required in the instructions on the form. An individual may submit a properly completed form to the Department at anytime without having to transact any other business with the Department. A form which is incomplete or which is illegible shall not be processed and shall not be returned.

B. Until the Department receives a properly completed form from an individual, the personal information provided by the individual to the Department shall be considered a public record as provided in R.S. 44:1 et seq.

C. Upon receipt of a properly completed form, the Department will code the individual's record to reflect the proper disclosure code pursuant to the option chosen on the form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2257 (November 1999).

### Subchapter C. Tax Exemption for Certain Trucks and Trailers Used 80 Percent of the Time in Interstate Commerce

#### §381. Definitions

As used in Subchapter C, the following terms have the meanings described below.

*Base Plate State*—the state which issues an apportioned license plate pursuant to the International Registration Plan.

*Department*—Department of Public Safety and Corrections, Office of Motor Vehicles.

*Eligible Contract Carrier Buses*—those buses used at least 80 percent of the time in interstate commerce.

*Established Place of Business*—a physical structure, owned, leased, or rented by the applicant, which has a publicly listed telephone, and has persons physically located at the business location for the purpose of conducting business operations.

*Person*—includes person, corporation, partnership, limited liability company, firm, association or other legal entity formed to conduct business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2257 (November 1999).

#### §383. Exemption from Sales Tax

A. Trucks with a minimum gross weight of twenty-six thousand pounds (26,000 lbs.), trailers, and contract carrier buses used at least eighty percent (80%) of the time outside the State of Louisiana in interstate commerce may claim a sales and use tax exemption.

B. The term "trucks" and "trailers" shall have the same meaning as the terms "truck, trailer, road tractor, or semi-trailer, tandem truck, tractor, and truck tractor" as defined in R.S. 47:451. The term "bus" shall mean a commercial vehicle with a minimum passenger capacity of thirty-five (35) persons and a minimum gross weight of twenty-six thousand pounds (26,000 lbs.). The term "contract carrier" shall mean any person transporting, other than as a common carrier, persons for hire, charge, or compensation.

C. Eligible trucks and trailers purchased or previously registered out of state and being titled using a tax date between July 1, 1996 through September 30, 1996 are exempt from partial state tax (1 percent Recovery District tax will be due) and all local parish/municipality tax. Those trucks and trailers purchased or previously registered out of state using a tax date on or after October 1, 1996, are exempt from all state and local parish/municipality tax. Business

must be conducted in two or more states with Louisiana being the base plate state, therefore, only trucks which are obtaining apportioned license plates are eligible to receive this exemption.

D. Eligible contract carrier buses which were purchased or previously registered out of state and being titled using a tax date on or after July 1, 1998 are also exempt from all state and local parish/municipality tax. These buses shall be issued hire-bus or hire-passenger plates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2257 (November 1999).

### **§385. Exemption Certificate**

A. The exemption certificate must be completed by the applicant and submitted along with proper title documentation and applicable fees. A separate exemption certificate is required for each vehicle and must contain a complete description of the vehicle, including year, make, and vehicle identification number.

B. For contract carrier buses, the applicant must also present proof in the form of a common carrier certificate or permit issued by the Federal Highway Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2258 (November 1999).

### **§387. Business Location in Louisiana**

A. If the vehicle is being titled in the name of a company, proof that the company has an established place of business in the State of Louisiana must be furnished. Unless it can be determined that the company has been issued an employer identification number (EIN) for a Louisiana-based company (EIN should begin with 72) and other vehicles have been registered in that company's name, two of the following items must be submitted as proof that the company has an established place of business:

1. A copy of the Tax Registration certificate issued by the Louisiana Department of Revenue indicating the Louisiana Tax Identification Number.

2. A copy of the Articles of Incorporation and the Initial Report as filed with the Louisiana Secretary of State. These documents should be photocopied and returned to the applicant in the event he wishes to purchase an apportioned license plate.

3. A Certificate of Authority issued by the Louisiana Secretary of State authorizing an out-of-state based corporation to transact business in the State of Louisiana.

4. A copy of the applicant's Occupational License.

5. A copy of a lease or rental agreement on property within the State of Louisiana, indicating the lessee is the same business as reflected on the exemption certificate.

B. If the vehicle is being titled in the name of an individual, proof must be furnished that the individual is a resident of the State of Louisiana. Unless it can be determined that the individual possesses a Louisiana driver's license and has other vehicles registered in his name, two of the following items must be submitted as proof that he is a resident of Louisiana:

1. A voter's registration card.

2. A receipt from the tax assessor's office in the parish where he resides, indicating the lessee is the same individual as shown on the exemption certificate.

3. A copy of a lease or rental agreement on property within the State of Louisiana, indicating the lessee is the same individual as shown on the exemption certificate.

4. Three utility statements (electric, gas, water, telephone, or cable vision) for consecutive months indicating the applicant's name and address.

C. The code "IH" must be entered in the no-tax field to allow the exemption of state and parish/municipality sales tax for interstate commerce carriers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2258 (November 1999).

### **§389. Expiration of Exemption**

The exemption from sales and use taxes established in R.S. 47:305.50 is scheduled to expire effective June 30, 2000. All vehicles purchased after June 30, 2000 will be subject to all state and local parish/municipality tax. If the sales and use tax exemption provided in R.S. 47:305.50 is extended by the legislature, these rules shall remain in effect, subject to amendment and repeal by the Department, until such time as the legislature repeals or otherwise terminates the exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2258 (November 1999).

### **§391. Administrative Actions**

A. The Department may suspend, cancel, or revoke any exemption granted pursuant to Subchapter C if the Department determines that the person does not meet the eligibility requirements for the exemption, or if the person has submitted false, incorrect, incomplete, or misleading information in connection with his application for an exemption.

B. Each applicant as well as each person granted an exemption pursuant to this Subchapter shall maintain the records establishing the person's eligibility for the exemption at the Louisiana business address given in the application. Each applicant as well as each person granted an exemption pursuant to this Subchapter shall make his records available for inspection and copying to any representative of the Department or of the Department of Revenue and Taxation during the hours of 8:00 a.m. to 5:00 p.m.. Monday through Friday and at any other time the person is conducting business at the location where the records are stored. Additionally, each applicant as well as each person granted an exemption pursuant to this Subchapter shall make his business premises available for inspection by any representative of the Department or of the Department of Revenue and Taxation during the hours of 8:00 a.m. to 5:00 p.m.. Monday through Friday and at any other time the person is conducting business.

C. Any request for an administrative hearing to review any action, order, or decision of the Department shall be in

writing and submitted to the Department within thirty days of the date the action, order or decision was mailed or hand delivered, as the case may be. The written request for a hearing shall be mailed to the Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, at P. O. Box 64886, Baton Rouge, Louisiana 70896-4886, or hand delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2258 (November 1999).

### **§393. Declaratory Orders**

A.1. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule, to the regulation of the sales and use tax exemption of this Subchapter shall submit a written petition to the assistant secretary. The written petition shall cite all, constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

2. If the petition includes reference to a specific transaction handled by the Department, or if the petition relates to the grant or denial of a sales and use tax exemption, then the person submitting the petition shall also submit proof that he has notified all of the persons involved in the transaction or issuance, revocation, cancellation, granting, or denial of the exemption by certified mail, return receipt requested. If the person is unable to notify the involved person or persons after otherwise complying with the notice requirement, he shall so state in his petition.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §393 of this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50, R.S. 47:321, and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2259 (November 1999).

Nancy Van Nortwick  
Undersecretary

9911#031

## **RULE**

### **Department of Social Services Office of Family Support**

General Administration—Hearings and Procedures  
(LAC 67:III.301-333 and 801)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 1, General Administrative Procedures.

Subsequent to the federal and state legislation commonly known as "welfare reform", the agency reorganized LAC 67:III.Chapter 3 to include and codify the entire Fair Hearing component of the Agency as operated under the Food Stamp Act, the Child Care and Development Block Grant, and Title IV-A of the Social Security Act.

The Agency also promulgated Chapter 8 to establish as part of LAC that the effective date of rules is generally the first of the month following the month of publication. This has been the policy of the Office of Family Support because of the difficulty in applying eligibility criteria other than on a monthly basis.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 1. General Administration**

#### **Chapter 3. Hearings**

#### **§301. Definitions**

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

*Administrative Disqualification Hearing*—is an administrative hearing to determine if an intentional program violation occurred.

*Administrative Law Judge (ALJ)*—is an impartial individual responsible for conducting a Fair Hearing and issuing a recommended or final decision on the issues in question.

*Advance Notice*—is notice informing the client of a proposed adverse action and the date that the future action will be taken.

*Advance Notice Period*—is the period from the date of the notice to the date the proposed action is to be taken.

*Adverse Notice*—is any written notice informing the client of any agency action which unfavorably affects his case and when that action is effective.

*Agency*—is any operating unit of the Office of Family Support such as local, regional, or state offices.

*Agency Conference*—is a meeting between the claimant and the agency where a supervisor or administrator explains the action that is being appealed. It may be conducted by telephone if the claimant agrees. The examiner/case manager/specialist may participate if the supervisor deems this appropriate and the claimant is in agreement.

*Appeal Decision*—is an official report which contains the substance of what transpired at the hearing and a summary of the case facts, identifies pertinent state or federal regulations and gives the reason for the decision. It is the

final written decision of the Department of Social Services (DSS), Bureau of Appeals, on the issue in question.

*Authorized Agent*—is any person acting on behalf of an applicant/recipient. This may include a friend, relative, attorney, paralegal, legal guardian, conservator, or foster care provider. For Food Stamp purposes, it may also mean an authorized representative or another household member.

*Benefits*—are any kind of assistance, payments or benefits made by the agency for Family Independence Temporary Assistance Program (FITAP), Refugee Cash Assistance, Food Stamps, FIND Work, or Child Care Assistance Programs.

*Claimant*—is an applicant or recipient who has requested a hearing.

*Concurrent Notice*—is notice informing the client of an action on his case which is being effected at the time the notice is given. The client is also informed of his right to request a Fair Hearing within an appropriate time-period.

*Date of Action*—is the intended date on which a termination, suspension, or reduction of benefits becomes effective.

*Directive*—is a written communication from the Bureau of Appeals to the agency giving specific instructions to be taken as a result of a hearing. This action shall be taken within 10 days and reported to the Bureau of Appeals within 14 days of the receipt of the directive.

*Fair Hearing*—is an administrative procedure during which a claimant (or a group of claimants) or his (or their) authorized agent may present a grievance and show why it is believed the agency action, proposed action, or inaction is not fair and should be corrected. A Fair Hearing meets the due process requirements set forth in the U.S. Supreme Court decision in *Goldberg vs. Kelly*.

*Official Hearing Record*—consists of a verbatim transcript or an official report summarizing what transpired at the hearing, all evidence and other material introduced at the hearing, the recommendations of the Administrative Law Judge, and the directive, if issued.

*Public Assistance Household*—is a food stamp household in which all members receive FITAP, RCA, or SSI.

*Request for a Fair Hearing*—is any clear expression (oral or written) by the claimant or his authorized agent that he wants to appeal an agency decision to a higher authority.

*Subpoena*—is an order commanding that a designated person or document be present at a Fair Hearing.

*Summary of Evidence*—is a document prepared by the agency stating the reason(s) the agency decided to take the action being appealed. Its purpose is to provide the claimant information needed to prepare his case for the hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by Department of Social Services, Office of Family Support, LR 25:2259 (November 1999).

### §303. General Rules and Principles

A. The DSS Bureau of Appeals is responsible for providing a system of hearings which must meet the due process standards set forth in Federal Regulations, State laws, and *Goldberg vs. Kelly* 397 US 245 (1970).

B. Each applicant is informed by the application form and by the appropriate notification forms (as decisions are made affecting his case) of his right to a hearing, of the method by which a hearing may be requested, and who may present his case. Detailed information concerning the Fair Hearing procedure is contained in the Fair Hearing Pamphlet, Form OFS 5F, which is provided by the DSS Bureau of Appeals when a Fair Hearing is requested.

C. The claimant may represent himself at the hearing or be represented by any authorized agent.

D. Minimum procedural safeguards necessary to accomplish the purpose of a Fair Hearing are:

1. a notice explaining the reason for the action and citing the policy reference;
2. an opportunity to defend by confronting adverse witnesses;
3. an opportunity to present arguments and evidence orally;
4. an opportunity to appear with counsel;
5. an impartial Administrative Law Judge;
6. a decision based solely on the legal rules and the evidence offered as proof at the hearing or obtained subsequent to the hearing; and
7. a statement explaining the reasons for the decision of the Administrative Law Judge and indicating the evidence on which the decision is based.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999).

### §305. Right to Request a Fair Hearing

A. Every applicant/recipient who believes he has been unjustly treated regarding benefits or services under any program administered by the Office of Family Support may request a Fair Hearing.

B. The DSS Bureau of Appeals has the right to deny a request for a Fair Hearing when:

1. the request is outside of the jurisdiction of the DSS Bureau of Appeals;
2. the request for a hearing is made after the time limit has expired; or,
3. the sole issue is one of state or federal law or regulation requiring automatic adjustment in benefits for classes of recipients.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999).

### §307. Time Limits for Requesting a Fair Hearing

A. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a Fair Hearing:

FITAP	30 days
FIND Work Program	30 days
Child Care Assistance	30 days
Refugee Cash Assistance	30 days
Food Stamps	90 days

The client may appeal at any time during a certification period for a dispute of the current level of benefits.



B. An appeal is timely requested if the appeal request:

1. is delivered on or before the due date; or,
2. mailed on or before the due date. If the appeal request is received by mail on the first working day following the due date, there shall be a rebuttable presumption that the appeal was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purposes of this Section, "by mail" applies only to the United States Postal Service.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999).

### §309. Time Limits for Decisions to be Rendered

A. A prompt, definitive and final decision must be provided within the number of days from the date of the Fair Hearing request as listed below:

FITAP	90 days
FIND Work Program	90 days
Child Care Assistance	90 days
Refugee Cash Assistance	90 days
Food Stamps	60 days*

\*or 90 days for Public Assistance households simultaneously appealing the same issue in Public Assistance and Food Stamp cases.

B. If the hearing is delayed at the request of the claimant or his authorized agent, the time limit for the rendering of a decision is extended for as many days as the hearing is delayed. However, the hearing cannot be delayed more than 30 days without good cause.

C. Limits for rendering a decision may be extended when the client wishes to present additional evidence. The limits are extended for the number of days it takes the client to submit the evidence.

D. Failure to meet the time limits in this section shall have no effect on the validity of the decision.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999).

### §311. Expedited Food Stamp Hearings

A. The DSS Bureau of Appeals and the agency must expedite hearing decisions for Food Stamp households that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be expedited if necessary to enable them to receive a decision before they leave the area.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999).

### §313. Continuation of Benefits

A. Recipients in all categories, except FIND Work and Child Care Assistance, who request a Fair Hearing prior to the expiration of the Advance Notice of Adverse Action or

within 13-days of the date of Concurrent Notice must have benefits continued at, or reinstated to, the benefit level of the previous month, unless:

1. the recipient indicates he does not want benefits continued;
2. a determination is made at the hearing that the sole issue is one of existing or changing state or federal law; or,
3. a change unrelated to the appeal issue affecting the client's eligibility occurs while the hearing decision is pending and the client fails to request a hearing after receiving the notice of change.

B. Benefits will continue at the prior level until the end of the certification period or until the resolution of the hearing, whichever is first. Such benefits are subject to recovery by the agency if the action is upheld.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999).

### §315. Client Rights

A. The claimant or his authorized agent has the right to:

1. Agency assistance in filing and preparing his request or an explanation of how to file an appeal.
2. Specific case record documents or applicable policy necessary to determine whether a hearing should be requested and/or the documents or policy necessary to prepare for a hearing. This is provided upon request and without charge.
3. Information about, and referral to, available community legal services.
4. A verbal explanation of the hearing procedures in the appropriate language if the individual making the request does not speak English.
5. Review the case record. Upon request and at a reasonable time before the hearing, the claimant and/or his authorized agent must be allowed to review the claimant's case record or any documents to be used by the agency at the hearing in the presence of an agency representative.
  - a. Confidential records, including confidential medical records, must be withheld unless the records were used as the basis for the determination which is being appealed.
  - b. The client must provide written permission before anyone other than the client is allowed to view the case record.
6. Present his case himself or with the aid of others, including legal representation.
7. Request that a subpoena be issued. The DSS Bureau of Appeals will evaluate such requests and authorize the agency to serve the subpoena if appropriate.
8. Request a postponement prior to the hearing. The DSS Bureau of Appeals will decide if a postponement is to be granted based upon good cause. Regardless of good cause, requests for rescheduling an initial hearing for a Food Stamp appeal will be granted.
9. Submit evidence and bring witnesses to the hearing. The claimant has the right to advance arguments without undue interference and to question or refute any testimony or evidence, including the right to confront and cross examine witnesses.

10. Request a rescheduled hearing after failing to appear at the hearing. The DSS Bureau of Appeals will evaluate the requests to determine if good cause exists.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999).

### **§317. Responsibility of DSS Bureau of Appeals When a Fair Hearing is Requested**

A. The Bureau of Appeals has the sole responsibility for accepting or rejecting all requests for a Fair Hearing.

B. The Bureau of Appeals must acknowledge Fair Hearing requests made directly to that office by or for a claimant, or requests submitted by the agency. All requests must be denied or accepted in writing. The agency will receive appropriate notification.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### **§319. Scheduling**

A. The Bureau of Appeals will schedule all Fair Hearings. The claimant, his authorized agent, and the agency will be notified at least ten days in advance of the time, place and date of the hearing. Hearings will be scheduled during regular working hours and will normally be set in the agency office, unless there are reasons for scheduling in another location.

B. Any hearing which is required or permitted hereunder may be conducted utilizing remote telephonic communications if the record reflects that all parties have consented to conducting the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing. A face-to-face hearing will be conducted if requested by the appellant.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### **§321. Providing a Summary of Evidence to the Client**

A. The Bureau of Appeals will provide a copy of the Summary of Evidence to the claimant or to his authorized agent with the notice for scheduling the Fair Hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### **§323. Withdrawals**

A. The claimant may withdraw his request for a fair hearing at any time prior to the hearing. The Bureau of Appeals must send written notice to the client, the client's representative and the agency confirming the withdrawal.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### **§325. Dismissal of a Request for a Fair Hearing**

A. A Fair Hearing request which is accepted by the Bureau of Appeals may be disposed of without a hearing and without a decision only when:

1. the request for a Fair Hearing is withdrawn; or
2. the claimant abandons his request for a hearing. If the claimant or his authorized agent fails to appear for a hearing and has made no contact with the agency or the Bureau of Appeals, the request for a Fair Hearing will be considered abandoned. If he later requests to reschedule, the request will be evaluated for good cause;
3. the issue is settled in the claimant's favor by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### **§327. Group Hearings**

A. When an agency policy or regulation is the sole issue, the Bureau of Appeals may schedule a single group hearing to respond to a series of individual requests. Regulations governing individual Fair Hearings are followed. Each individual claimant must be permitted to present his case or be represented by an authorized agent. If a group hearing is arranged, an individual claimant must be given the right to withdraw from the group hearing in favor of an individual hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### **§329. Attendance**

A. Only persons directly concerned are permitted to attend the hearing. The claimant may be accompanied or represented by anyone he believes necessary or desirable to support his claim, including legal counsel if he so desires.

B. Appropriate agency representatives and service providers are required to attend the hearing.

C. The Administrative Law Judge has the authority to limit the number of persons in attendance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### **§331. Hearing Official**

A. Hearings shall be conducted by an impartial official(s) who:

1. does not have a personal involvement in the case;
2. was not directly involved in the initial determination of the action which is being contested; and
3. was not the immediate supervisor of the eligibility worker who took the action.

B. The hearing official shall be:

1. an employee of the Department of Social Services;
- or
2. an individual under contract with the Department of Social Services.

C. The hearing official shall:

1. administer oaths or affirmations;
2. insure that all relevant issues are considered;
3. request, receive and make part of the record all evidence determined necessary to decide the issues;
4. regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;

5. order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department of Social Services;

6. provide a hearing record and recommendation for final decision by the hearing authority; or, if the hearing official is the hearing authority, render a hearing decision in the name of the Department of Social Services which will resolve the dispute.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

**§333. Hearing Authority**

A. The hearing authority shall be the person designated to render the final administrative decision in a hearing.

B. Decisions of the hearing authority shall comply with State and Federal law and regulations and shall be based on the hearing record.

C. A decision by the hearing authority shall be binding on the Department of Social Services and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent State or Federal regulations. The decision shall become a part of the record. The household shall be notified in writing of the:

1. decision;
2. reasons for the decision;
3. available appeal rights; and
4. right to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2263 (November 1999).

**Chapter 8. General Administrative Procedures**

**§801. Implementation of Regulations**

Because of the nature of the eligibility programs administered by the agency, rules promulgated by the Office of Family Support are effective the first of the month following the publication of the final rule, unless otherwise stated within the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2263 (November 1999).

Gwendolyn P. Hamilton  
Secretary

9911#052

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Black Bass Regulations—Spanish Lake  
(LAC 76:VII.191)**

The Wildlife and Fisheries Commission hereby establishes the following rule on black bass (*Micropterus spp.*) on Spanish Lake, located between the cities of New Iberia and Lafayette in Iberia and upper St. Martin Parishes, Louisiana.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 1. Freshwater Sports and Commercial Fishing**

**§191. Black Bass Regulations—Spanish Lake**

The harvest regulations for black bass (*Micropterus spp.*) on Spanish Lake, located between the cities of New Iberia and Lafayette, in Iberia and upper St. Martin Parishes, Louisiana is as follows:

1. Size limit: 16 inch - 21 inch slot. A 16-21 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 16 inches and 21 inches, both measurements inclusive.

2. Daily take: 8 fish of which no more than two fish may exceed 21 inches maximum total length.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C) and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999).

Bill A. Busbice, Jr.  
Chairman

9911#024

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Turkey Hunting Season—2000  
(LAC 76:XIX.113, 115, and 117)**

In accordance with the Notice of Intent published in the July 1999 *Louisiana Register*, the Wildlife and Fisheries Commission, at its regular monthly meeting in November hereby ratifies regulation on open hunting season dates, bag limit, methods of taking, and rules and regulation on Department operated wildlife management areas for turkeys. Authority to establish regulations are vested in the Commission by §115 of Title 56 of the Louisiana Revised Statutes of 1950.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting**

**Chapter 1. Resident Game Hunting Season**

**§113. Turkey Hunting Regulations**

A. Daily limit is one gobbler, three gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages "feeding" agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999).

**§115. Statewide Turkey Hunting Areas—Resident Game Birds And Animals**

A. Shooting Hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	3/season

**B. 2000 Turkey Hunting Schedule**

Area	Season Dates
A	March 25-April 23
B	April 1-16
C	March 25-April 2

C. 2000 Turkey Hunting Season—Open Only in the Following Areas

1. Area A - March 25-April 23

- a. All of the following parishes are open:
  - i. East Baton Rouge;
  - ii. East Feliciana;
  - iii. LaSalle;
  - iv. Livingston;
  - v. Natchitoches (Exception: See Kisatchie National Forest hunting schedule for National Forest dates);
  - vi. St. Helena;
  - vii. St. Tammany;
  - viii. Tangipahoa;
  - ix. Washington;
  - x. West Baton Rouge;
  - xi. West Feliciana (including Racourci Island).

- b. Portions of the following parishes are also open:
  - i. Allen: north of La. 26 from DeRidder to the junction of La. 104 and north of La. 104;
  - ii. Avoyelles: that portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1 eastward to Simmesport, and that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451;
  - iii. Beauregard: north of La. 26 east of DeRidder, north and east of U.S. 171-190 from the junction of La. 26 to DeRidder, and north of U.S. 190 from DeRidder to Texas state line;
  - iv. Caldwell: west of Ouachita River southward to Catahoula Parish line, east of La. 165 from LaSalle Parish line to the junction of La. 126, north of La. 126 westward to the Winn Parish line;
  - v. Catahoula: west of Ouachita River southward to La. 559 at Duty Ferry, north of La. 559 to La. 124, south and west of La. 124 from Duty Ferry to La. 8 at Harrisonburg and north of La. 8 to La. 126, north and east of La. 126. ALSO that portion lying east of La. 15;
  - vi. Concordia: that portion east of Hwy. 15 and west of Hwy. 65 from its juncture with Hwy. 15 at Clayton;
  - vii. Evangeline: north and west of La. 115, north of La. 106 from St. Landry to La. 13, west of La. 13 from Pine Prairie to Mamou and north of La. 104 west of Mamou;
  - viii. Franklin: that portion lying east of Hwy. 17 and east of Hwy. 15 from its juncture with Hwy. 17 at Winnsboro;
  - ix. Grant: all of the parish except that portion of land that lies north of the Red River between U.S. 71 and La. 8. Exception: see Kisatchie National Forest hunting schedule for season dates;
  - x. Iberville: west of La. Hwy. 1. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
  - xi. Madison: that portion lying west of U.S. Hwy. 65 and south of U.S. Hwy. 80;
  - xii. Pointe Coupee: all except that portion bounded on the west by La. 77 and La. 10, northward from U.S. 190 to La. 1 at Morganza, on the north and east by La. 1 to its junction with La. 78 and by La. 78 from Parlange to U.S. 190. Further Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
  - xiii. Rapides: all of the parish except that portion of lands that lies north of the Red River and south of U.S. Hwy. 71 from its juncture with the Red River northward to the Grant Parish line. Exception: see Kisatchie National Forest hunting schedule for season dates;
  - xiv. Richland: that portion south of U.S. Hwy. 80 and east of Hwy. 17;
  - xv. Sabine: that portion north of Hwy. 6 from Toledo Bend Lake to Many; east of Hwy. 171 from Many to the Vernon Parish line;
  - xvi. St. Landry: that portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee. ALSO that portion of the parish bounded on the north

by La. 10 from the West Atchafalaya Basin Protection Levee to Burton's Lake, on the east by Burton's Lake, on the south by Petite Prairie Bayou to its junction with the old O.G. Railroad right-of-way then by the O.G.R.R. right-of-way westward to U.S. 71 and on the west by the West Atchafalaya Guide Levee to its junction with La. 10, Except the Indian Bayou tract owned by the U.S. Corps of Engineers;

xvii. Upper St. Martin: all within the Atchafalaya Basin. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xviii. Tensas: that portion west of Hwy. 65 from the Concordia Parish line to its juncture with Hwy. 128, north of La. 128 to St. Joseph; west and north of La. 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands lying east of the main channel of the Mississippi River;

xix. Vernon: that portion east of Hwy. 171 from the Sabine Parish line to the junction of Hwy. 111, south of Hwy. 111 westward to Hwy. 392, and south of Hwy. 392 westward to the Sabine Parish line. Exception: See Kisatchie National Forest hunting schedule for season dates.

## 2. Area B—April 1-April 16

a. All of the following parishes are open:

i. Bienville;

ii. Bossier;

iii. Claiborne;

iv. Lincoln;

v. Red River;

vi. Webster, including Caney Ranger District of Kisatchie National Forest.

b. Portions of the following parishes are open:

i. Caddo: that portion north of La. 2 from the Texas state line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line;

ii. DeSoto: that portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84;

iii. East Carroll: east of U.S. 65 from Arkansas state line to Madison Parish line;

iv. Jackson: west of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to La. 144, west of La. 144 to La. 34, west of La. 34 to Chatham, north and west of La. 4 from Chatham to Weston, north and west of La. 505 from Weston to Wyatt, west of U.S. 167 from Wyatt to Winn Parish line;

v. Ouachita: east of La. 143 from Union Parish line to Bayou Darbonne, north of Bayou Darbonne to the Ouachita River, west of the Ouachita River from the mouth of Bayou Darbonne northward to the Union Parish line;

vi. Morehouse: west of U.S. 165 from the Arkansas line to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, north of U.S. 165 from Bastrop to Ouachita Parish line;

vii. Union: west of La. 15 from Ouachita Parish line to La. 33 west of Farmerville, north of La. 33 to La. 2 at Farmerville, north and east of La. 2 to La. 143 at Crossroads, east of La. 143 to the Ouachita Parish line.

## 3. Area C—March 25-April 2

a. All of the following parish is open:

i. Winn (Exception: see Kisatchie National Forest hunting schedule for season dates.)

b. Portions of the following parishes are open:

i. Ascension: all east of the Mississippi River;

ii. Allen: south of La. 26 from DeRidder to Oberlin, west of U.S. 165 south of Oberlin;

iii. Avoyelles: south of La. 1 to West Protection Levee, south to Avoyelles Parish line;

iv. Beauregard: south of La. 26 east of DeRidder, east of U.S. 171 from the junction of La. 26 to Ragley, south of La. 12 west to Ragley;

v. Calcasieu: south of La. 12 east of Dequincy, east of La. 27 from Dequincy to I-10, and north of I-10 east of Sulphur;

vi. Concordia: north and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. Hwy. 84, south of U.S. Hwy. 84 eastward to La. Hwy. 15 (Ferriday), east of La. Hwy. 15 northward to U.S. Hwy. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line;

vii. Iberville: all east of the Mississippi River;

viii. Jefferson Davis: west of U.S. 165 and north of I-10;

ix. Madison: south of Hwy. 80 and east of U.S. Hwy. 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

x. St. Landry: that portion bounded on the south by La. 10, on the west by the West Atchafalaya Basin Protection Levee, on the east by La. 105, and on the north by the Avoyelles Parish line;

xi. Tensas: east and south of U.S. Hwy. 65 from Concordia Parish line to Hwy. 128, south of Hwy. 128 to St. Joseph, east and south of La. Hwy. 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999).

## §117. 2000 Wildlife Management Area Turkey—Hunting Regulations

### A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. All trails and roads designated as ATV Only shall be closed to ATVs from March 1 through September 15. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted), unless opened by sign on trail.

4. Bag limits on WMAs are part of the season bag limit. The bag limit for turkeys on Wildlife Management Areas is two per area, not to exceed two per season for all WMAs. Only one turkey is allowed to be taken during special lottery hunts. The bag limit for turkeys is one gobbler

per day and three gobblers per season including those taken on WMAs.

**B. Permits**

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and depositing it in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts: Bayou Macon, Dewey Wills, Georgia-Pacific, Loggy Bayou, Sabine, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application lottery. Deadline for receiving applications is February 15, 2000. Application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements.

3. Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1 — P.O. Box 915, Minden, 71055; 318/371-3050]; [District 2 — 368 Century Park Drive, Monroe, 71203; 318/343-4044]; [District 3 — 1995 Shreveport Hwy., Pineville, 71360; 318/487-5885]; [District 4 — P.O. Box 1640, Ferriday, 71334; 318/757-4571]; [District 5 — 1213 N. Lakeshore Dr., Lake Charles, 70601; 318/491-2575]; [District 6 — 5652 Highway 182, Opelousas, 70570; 318/948-0255]; [District 7 — P.O. Box 98000, Baton Rouge, 70898; 225/765-2360].

**C. Wildlife Management Area Turkey Hunting Schedule\***

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 1-April 2	Self-clearing	April 1-2
Bens Creek†	March 25-April 16	Self-clearing	None
Big Lake	March 25-April 2	Self-clearing	None
Bodcau	April 1-April 16	Self-clearing	None
Boeuf	March 25-April 2	Self-clearing	None
Boise Vernon	March 25-April 16	Self-clearing	None
Camp Beauregard	March 25-April 9	Self-clearing	None
Dewey Wills	March 25-26 April 1-2	Self-clearing	March 25-26 April 1-2
Fort Polk	March 25-April 23	Self-clearing	None
Georgia-Pacific	April 1-April 9	Self-clearing	April 1-2
Grassy Lake	March 25-April 2	Self-clearing	None
Jackson-Bienville	April 1-April 16	Self-clearing	None

Little River	March 25-April 9	Self-clearing	None
Loggy Bayou	April 8-9 April 15-16	Self-clearing	April 8-9 April 15-16
Pearl River	March 25-April 9	Self-clearing	None
Peason Ridge	March 25-April 23	Self-clearing	None
Pomme de Terre	March 25-April 2	Self-clearing	None
Red River	March 25-April 2	Self-clearing	None
Sabine	March 25-March 26 April 1-April 2	Self-clearing	March 25-26 April 1-2
Sandy Hollow†	March 25-April 16	Self-clearing	None
Sherburne	March 25-April 2	Self-clearing	March 25-26 March 27-29
Sicily Island	March 25-26 April 1-2 April 8-9	Self-clearing	March 25-26 April 1-2 April 8-9
Three Rivers	March 25-April 2	Self-clearing	None
Tunica Hills Angola Tract	March 25-26 April 1-2 April 8-9 April 15-16	Self-clearing	March 25-26 April 1-2 April 8-9 April 15-16
Tunica Hills South Tract	March 25-26 April 1-2 April 8-9 April 15-16	Self-clearing	March 25-26 April 1-2 April 8-9 April 15-16

\*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are CLOSED. For seasons on other lands managed by the Department of Wildlife and Fisheries, contact the local district office.

\*\* The deadline for receiving applications for all Turkey Lottery Hunts on WMAs is February 15, 2000.

† No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

Kisatchie National Forest (KNF) Turkey Hunting Schedule: Caney Ranger District, April 1-16; KNF lands in Winn Parish, March 25-April 2; All remaining KNF lands, March 25-April 16.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2265 (November 1999).

Bill A. Busbice, Jr.  
Chairman

9911#018

# Notices of Intent

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Policy for Louisiana's Public Education Accountability System Growth Targets and New Schools/Reconfigured Schools (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, 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 amendment more clearly explains the policy by which Growth Targets will be computed for new and reconfigured schools that come on line later in the accountability process. The changes also more clearly define what constitutes a "new school."

### 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. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), amended LR 26:

#### Growth Targets

##### 2.006.05

Growth Targets for New or Reconfigured Schools. Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be  $(100-50)/2 = 25$ . Under this rule, the school's Growth Target shall be 20, the maximum.

Growth Targets for Reconstituted Schools. Until 2009 (for K - 8 schools) and 2011 (for 9 - 12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution. For example, suppose a school is reconstituted in 2005 and has an SPS of 50 (based on previous year's data), the school's Growth Target for the first cycle after reconstitution shall be 10 points  $[(100-50)/5]$ .

### New Schools and/or Significantly Reconfigured Schools

**2.006.16** For a newly formed school, the school district shall register the new school with the Louisiana Department of Education to have a site code assigned to that school. A new school shall not be created nor shall a new site code be issued in order to prevent a school from entering the Accountability System. Before a new school is created, the Local Education Authority must work with the Louisiana Department of Education to explore ways the new school can be included in the Accountability System.

When two or more schools are created from an existing school (e.g., Grades 4-6 "split" from an existing K-6 structure, creating a K-3 school and a 4-6 school), the existing site code stays with the lower grades (K-3), and the "new" (4-6) school shall receive a new site code. If a new school is created from the population of a school already having an SPS, then prior year data of the existing school shall be used to calculate the SPS of the newly created school. If there is not enough data to give the new school an SPS, then the new school shall receive its initial baseline SPS at the end of the second year of operation, since it shall need two years of data.

Interested persons may submit written comments until 4:30 p.m., January 10, 2000 to Nina 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 741—Louisiana Handbook for School Administrators—Policy for Louisiana's Public Education Accountability System Growth Targets and New Schools/Reconfigured Schools

- 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 clarify existing policy.
- 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 directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There will be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
9911#075

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School  
Administrators—Principal/Assistant Principal Internship  
Program (LAC 28:I.901 and 920)

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). Bulletin 1882 contained the Guidelines for the Administrative Leadership Academy and the requirement for the Principal/Assistant Principal Internship Program. The proposed amendment aligns Bulletin 741 with current legislation and procedures.

**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(5).

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:

**Bulletin 741—Louisiana Handbook for School  
Administrators—Systems Policies and Standards**

**1.016.10** All newly appointed principals and assistant principals with standard or provisional certification shall participate in the Principal/Assistant Principal Internship Program.

The Program shall include the following:

1. Individuals appointed to a principalship or an assistant principalship after October 1 shall be enrolled in the Principal Internship Program at the beginning of the following year.

2. Principal Internship and Assistant Principal Internship requirements shall not apply to individuals serving in a temporary capacity.

3. A newly appointed principal with less than five years of experience as an administrator (e.g., as an assistant principal) shall complete both years of the Principal Internship.

4. A newly appointed principal with five or more years of experience as an administrator (e.g., as an assistant

principal) shall complete only the first year requirements of the Principal Internship.

**School Policies and Standards**

**2.106.10** All newly appointed principals and assistant principals with standard or provisional certification shall participate in the Principal/Assistant Principal Internship Program.

The Program shall include the following:

1. Individuals appointed to a principalship or an assistant principalship after October 1 shall be enrolled in the Principal Internship Program at the beginning of the following year.

2. Principal Internship and Assistant Principal Internship requirements shall not apply to individuals serving in a temporary capacity.

3. A newly appointed principal with less than five years of experience as an administrator (e.g., as an assistant principal) shall complete both years of the Principal Internship.

4. A newly appointed principal with five or more years of experience as an administrator (e.g., as an assistant principal) shall complete only the first year requirements of the Principal Internship.

**§920. Administrative Leadership Academy Guidelines**

A. Bulletin 1882

Repealed.

Interested persons may submit written comments until 4:30 p.m., January 10, 2000 to Ms. Nina Ford, Board Recorder, 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 741—Louisiana Handbook for  
School Administrators—Principal/Assistant Principal  
Internship Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost to the State would be \$100 to print and disseminate the updates to the Bulletin 741 Standards to Local School Systems. All current procedures remain the same.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)

There are no estimated costs associated with the change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There is no impact on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9911#078

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office



**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel—University Counseling Services Requirement (LAC 28:I.903)

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 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment deletes the requirement of three hours of counseling by university counseling services for an applicant prior to entry into a teacher education program.

**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:

**Bulletin 746: Teacher Certification Standards and Regulations**

\* \* \*

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.

\* \* \*

Interested persons may submit comments until 4:30 p.m., January 10, 2000 to: Nina 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 746—Louisiana Standards for State Certification of School Personnel—University Counseling Services Requirement**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This policy will have no estimated cost and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9911#077

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 904—Charter School Start-Up Loan Program (LAC 28:I.904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for Advertisement revisions to Bulletin 904, Charter Schools, referenced in LAC 28:I.904. In accordance with Act 477 of the 1997 Legislative Session as amended by Act 757 of the 1999 Legislative Session, the Guidelines provide a source for funding no-interest loans to assist both existing and new Type 1, Type 2 or Type 3 Charter Schools with initial start-up funding and for funding the administrative and legal costs associated with the Charter School Program. The Guidelines are an amendment to Bulletin 904 and referenced in LAC 28:I.904.

**Title 28  
EDUCATION**

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

**Subchapter A. Bulletins and Regulations**

**§904. Charter Schools**

**A. ...**

**B. Charter School Start-Up Loan Program**

Act 477 of the 1997 Legislative Session allows for the operation of up to 20 charter schools statewide in 1998-99 and increases that number to 42 in subsequent years. It also created the Louisiana Charter School Start-Up Loan Fund within the State Treasury for the purpose of providing a source for funding no-interest loans to charter schools. As amended by Act 757 of the 1999 Legislative Session, the loan funds are to be made available to assist both existing and new Type 1, Type 2 or Type 3 Charter Schools with initial start-up funding and for funding the administrative and legal costs associated with the charter school program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001, and R.S. 39:75(C)(1)(b).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 24:1683 (September 1998), amended LR 25:249 (February 1999), LR 26:

Guidelines for the Louisiana Charter  
School Start-Up Loan Fund

Under the authority of Act 477 of the 1997 Legislative Session, the Louisiana Charter School Start-Up Loan Fund was initially created within the State Treasury for the purpose of providing funding for no-interest loans to Type 1 and 2 charter schools. As amended by Act 757 of the 1999 Legislative Session, these state loan funds are intended to assist Type 1, Type 2 and Type 3 Charter Schools with initial start-up funding, and for funding the state administrative and legal costs associated with the Charter School Program. Act 757 of the 1999 Legislative Session further provided that SBESE enact a streamlined application, review and approval process in order to administer the monies appropriated from the fund.

In accordance with Act 757 of the 1999 Legislative Session, the SBESE hereby adopts the following rules to govern approval of loan requests of Charter Schools for initial start-up funding.

A. Application

1) As part of any new Type 2 charter school proposal submitted to the SBESE, the applicant may choose to include a request for up to \$100,000 from the Louisiana Charter School Start-up Loan Fund. If such charter school proposal was deemed to be financially sound by the review team and approved by SBESE, then the charter school loan request portion of the proposal is also approved. By law, no additional loan application paperwork may be required if an appropriate request is made within the charter school proposal.

2) Any new or existing Type 1, 2, or 3 charter schools choosing to apply for up to \$100,000 in charter school start-up loan funding after they have already received approval to operate, may submit a separate application providing the information depicted in Section B.

B. Required Information

Per R.S. 17:4001, those requesting a charter school start-up loan must provide the following information either as part of their overall charter school proposal or as a separate request;

1) a budget depicting the planned expenditure of the loan funds during the term of the loan with information showing that any planned expenditures will be used to purchase tangible items such as equipment, technology, instructional materials, and facility acquisition, upgrade and repairs;

2) a budget depicting the overall anticipated revenue and expenditures, including the repayment of any requested charter school loan amount, for each of the three years of operation during the term of the loan (see section G for repayment conditions);

3) a statement of assurance indicating agreement with the conditions of repayment as provided in Section G.

4) a copy of the charter school proposal for any Type 1 or Type 3 school that had been provisionally or otherwise approved to operate by their local school board.

C. Review Process

1) New Type 2 Charter Schools. Start-up loan requests submitted as part of the larger charter school proposal will be reviewed using the same review process approved by SBESE for the review of such charter school proposals.

Each review team will include at least one person representing the Division of Education Finance in the SDE who will review the information required in Section B to determine the financial viability of the proposed school. If the review team recommends provisional approval or provisional approval with modifications of the overall charter school proposal, and such recommendations are approved by SBESE, then such approval by law also constitutes approval of the requested start-up loan funding.

2) Existing Type 1, 2, and 3 Charter Schools. Review of any request made by an already approved charter school will be reviewed by at least one person representing the Division of Education Finance in the SDE and the charter school staff in the BESE Office, who collectively will make a recommendation to SBESE.

3) Grounds for Denial. If a given charter school proposal is deemed to be financially sound by either the state review team (Type 2's), or by the local school board (Type 1's or Type 3's) with which the school is chartered, then the request for charter school loan funds will be granted. Only if all required information listed in Section B is not provided, and/or findings from subsequent background checks reveal information that would require the revocation of the initial approval as depicted in Section F, will a loan approval be revoked or a recommendation for granting requested loan funds not be made.

D. Allowable Use of Loan Funds

Any loans funds:

1) may only be used to purchase tangible items such as equipment, technology, instructional materials, and facility acquisition, upgrade, and repairs; and

2) may not be used to pay prior debts of the nonprofit corporation which formed the charter school, any of the natural persons involved in forming the charter school for any purchase not related to the creation of the charter school principally, or any former or current business or nonprofit venture of any such natural persons, or to pay to members of the immediate family or any such natural persons, or to make any investments.

E. Distribution of Funding

Any approved loan funds will become available for use once: a) all required background check applications have been submitted; and b) provisional approval or provisional approval with modifications has been given to a charter school proposal, or c) approval has been given to a separate loan request. Such loan funds will be distributed upon the receipt of proper paperwork including any invoice or purchase order for equipment, technology or other items as allowed by law and described in Section D. The charter school will keep appropriate paperwork and inventory of all items purchased using state charter school loan funds. In addition, appropriate state tagging procedures for all moveable property costing \$250 or more purchased with state funds will be required. If a school fails to comply with any requirements specified by the granting authority or otherwise fails to open, then any items purchased with such loan funds will become the property of the state as described in Section H.

F. Background Checks.

New and existing charter schools requesting start-up loan funding are subject to background checks. Types 1, 2, and 3 charter schools requesting loan funds shall conduct

background checks on applicable persons as stipulated in the BESE approved regulations. No loan funding will be distributed until the person principal to the charter school proposal has submitted all paperwork regarding the background checks required by SBESE. If the findings from such checks reveal that such person has been convicted of any felony related to misappropriation of funds or theft, the disbursement of any loan funds shall be stopped immediately until another individual whose background checks are clear is placed in charge of the proposed charter school's financial affairs.

#### G. Repayment

1) For any Type 2 charter school receiving loan funds, the State Department of Education will automatically reduce the last state payment for this school during each of the three years of the loan's term. The amount to be reduced each year is equal to one-third of the total loan amount received to date. If the amount required to be reduced during any given year is greater than the last scheduled payment, then the reduction will come from the last two or more payments. Upon reduction of such funds, the State Department of Education will deposit those monies with the state treasury in the Louisiana Charter School Start-up Loan Fund.

2) Any Type 1 or Type 3 charter school receiving state loan funds must submit to the State Department of Education by June 30<sup>th</sup> of each year of the loan's term, a payment equal to at least one-third of the total loan amount received by the school to date. The State Department of Education will deposit those monies with the state treasury in the Louisiana Charter School Start-up Loan Fund. Any charter school failing to make such repayments shall be considered a nonapproved school whose students cannot count toward any future state funding.

#### H. Ceased Operation of the Charter School

In the event that a charter school which had received a charter school start-up loan fails to open or ceases to operate during the three years of automatic loan repayment as described in Section G, any equipment or other items purchased with loan funds equaling the value of the unpaid loan amount will become the property of the state.

#### I. Eligibility

1) Any new Type 1, 2, or 3 charter school slated to be opened as either a new school or through the conversion of an existing school, is eligible to apply for state loan funds.

2) Any existing Type 1, 2, or 3 charter school may apply for state loan funds any time during the first five years of their initial charter.

3) Any existing Type 1, 2, or 3 schools whose charters have been renewed after the initial five year term may apply for state loan funds if significant expansion of the charter school is anticipated and approved by the chartering authority. Such expansion includes, but is not limited to, the addition of new grades or the construction of new facilities or renovation of the school's facilities. Any charter school seeking a subsequent state loan will only be approved if adequate funding was available to first provide loans to those schools requesting a loan for the first time.

#### J. Complaints.

All written complaints received will be handed to the state charter school administrator for review, analysis and investigation to determine the facts and to recommend resolution. Upon completion of the internal review, the

complainant will be notified in writing of the results of the review. Each complaint will be handled in a fair and consistent manner and responded to within 15 working days of receipt.

K. No departure from these guidelines is allowed without unanimous consent from SBESE.

Interested persons may submit written comments until 4:30 p.m., January 19, 2000 to Nina Ford, Board Recorder, 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 904—Charter School Start-Up Loan Program**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In Fiscal Year 1999-2000 the legislature has appropriated \$1,825,000 from the Charter School Loan Fund. Of this amount, \$1,788,500 will be used to provide loans to charter schools, and a maximum of 2 percent (\$36,500) will be used for administrative and, if necessary, legal costs. The amount designated for administrative costs is significantly less than that provided in the prior Start-Up Loan Guidelines due to revisions to the Start-Up Loan application process per Act 757 of the 1999 legislative session. The previous regulations required contract services with an external evaluator to develop the loan application and guidelines and to review the applications. The current attached Guidelines require that all applications will be evaluated by the BESE approved proposal review team as well as staff from the Education Finance Division of the SDE. The actual amount expended for charter school start-up purposes will depend on the number of loans approved and the amounts per loan.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action will have 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)

The Loan Fund will provide the necessary start-up funding for eligible groups with new charter schools.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will ultimately have the effect of creating additional employment opportunities for teachers and other school personnel in charter schools. This may create a competitive situation for schools in that particular area.

Weegie Peabody  
Executive Director  
9911#066

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

(Editor's Note: Bulletin 1929 was adopted in LR 20:1097 (October 1994). The present revision is being published in codified form, hence historical notes will reflect a history, by section, from this time forward.)

Bulletin 1929—Louisiana Accounting and  
Uniform Governmental Handbook  
(LAC 28:XL.Chapters 1-11)

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 revised Bulletin 1929 promulgated in LR 20:1097 (October 1994). The Bulletin is being revised to add new items or clarify existing items. The present Bulletin is being repealed and promulgated as a codified document.

**Title 28**

**EDUCATION**

**Part XL. Bulletin 1929—Louisiana Accounting and  
Uniform Governmental Handbook**

**Chapter 1. Purpose of Handbook**

**§101. Introduction**

A. The primary purpose of the Louisiana Accounting and Uniform Governmental Handbook for local school boards is to serve as a vehicle for program cost accounting at the local and state levels.

B. The Louisiana State Department of Education has a responsibility to provide and interpret comprehensive statistics about the condition of education in the state. In addition, it has congressional mandates to publish fiscal data as well as to provide statistical data that can be used by local school boards to improve their activities.

C. The Louisiana Accounting and Uniform Governmental Handbook attempts to produce comprehensive and compatible sets of standardized terminology for use in education management and reporting. The following basic criteria were used in selecting items and classifications for inclusion in this publication.

1. The items, accounts, and categories of information should provide the basic framework fundamental to a comprehensive financial management system.

2. The guidelines should serve all sizes and types of school systems.

3. The categories of accounts should be both contractible and expandable, enabling all school systems to adapt them to support various financial management information systems.

4. Data elements should be added into needed categories for purposes of reporting and comparing at the local, state and federal levels.

5. The guidelines should conform to generally accepted accounting principals.

6. The guidelines should include the categories necessary to provide full disclosure of financial information.

7. The categories included should provide an adequate audit trail.

D. The local school board is the organization most likely to use the account classifications described here. However, the Louisiana State Department of Education is, most likely, the direct user. Both will derive direct benefits as acceptance and use of these guidelines spread among local school boards. The resulting increased uniformity of accounting records in use at the local level will make financial data assembled at the state and federal levels more comparable and meaningful.

E. While this publication includes a complete listing of classifications and standard terminology, it is not all-

inclusive, specifically, it does not provide the information listed below.

1. methods and procedures for recording financial data (such as how to record entries in journals and ledgers);

2. methods and procedures for reporting financial data (such as actual preparation of financial reports from the ledgers);

3. methods and procedures for utilizing financial data (such as budgeting and making decisions about the financial position of the local school board).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

**Chapter 3. The Account Classification Structure**

**§301. Explanation/General Information**

A. This publication provides for classifying three basic types of financial activity: revenues and other sources of funds; expenditures and other uses of funds; and transactions affecting the balance sheet only. For each type of transaction, the specific account code is made up of a combination of classifications called *dimensions*. Each dimension describes one way of classifying financial activity. The dimensions applicable to each type of transaction are:

Revenues	Expenditures	Balance Sheet
Fund	Fund	Fund
Source	Object Function	Balance Sheet Accounts

B. The purpose and uses of each of these dimensions are described below. The chart of accounts for each of these dimensions is shown later in this handbook.

1. *Fund*—a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources. It also contains all related liabilities and residual equities or balances, or changes therein. Funds are established to carry on specific activities or to attain certain objectives of an LEA according to special legislation, regulations, or other restrictions.

2. *Source*—permits segregation of revenues by source. The primary classification differentiates local, state and federal revenue sources.

3. *Object*—the service or commodity bought. There are nine major object categories: Salaries, Employee Benefits, Purchased Professional and Technical Services, Purchased Property Services, Other Purchased Services, Supplies, Property, Other Objects, and Other Uses of Funds.

4. *Function*—the activity for which a service or material object is acquired. The functions of an LEA are classified into five broad areas: Instruction, Support Services, Operation of Non-Instructional Services, Facilities Acquisition and Construction Services, and Other Uses.

5. *Balance Sheet Accounts*—these classifications correspond to those items normally appearing on the balance sheet in three areas: assets and other debits; liabilities and other credits; and fund equity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

## Chapter 5. Fund Classifications

### §501. Explanation/General Information/

#### Introduction/Overview

A. Governmental accounting systems should be organized and operated on a fund basis. Unlike a private business, which is accounted for as a single entity, a governmental unit is accounted for through separate fund and account group entities, each accounting for designated assets, liabilities and equity or other balances. Therefore, from an accounting and financial management viewpoint, a governmental unit is a combination of several distinctively different fiscal and accounting entities, each having a separate set of self-balancing accounts and functioning independently of other funds and account groups. Each fund must be so accounted for that the identity of its resources, obligations, revenues, expenditures, and fund equities is continually maintained.

B. The various activities of a government are not typically considered to form a homogeneous whole. Instead, a governmental entity is considered to comprise a number of separate fiscal entities known as "funds." Such funds are established to segregate specific activities or objectives of a government in accordance with special regulations, restrictions, or limitations. Thus, in governmental accounting, the accounting entity is each individual fund, not the overall government organization.

Funds used by governmental entities are classified into three broad categories: governmental, proprietary, and fiduciary. These funds are supplemented by two account groups: the General Fixed Assets Account Group and the General Long-Term Debt Account Group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

### §503. Governmental Funds

A. Governmental Funds are funds through which most functions are typically financed. Governmental funds are accounting segregations of financial resources. Their measurement focus is on the determination of financial position and on the changes in financial position (sources, uses, and balances of financial resources), rather than on net income determination. This measurement focus is basically the flow of current financial resources. This measurement focus is unique in that generally only current expendable financial resources are accounted for in the governmental fund category. Within the governmental funds category are the four fund types described below.

1. The General Fund—used to account for all financial resources except those required to be accounted for in another fund. Typically, the general fund is the chief reporting vehicle for a government's current operations.

2. Special Revenue Funds—used to account for specific revenue sources that legally may be expended only for specific purposes. Special revenue funds are not used for amounts held in trust or for resources that will be used for major capital projects.

3. Capital Projects Funds—used to account for major capital acquisitions or construction. These funds are not used for construction financed by proprietary or trust funds. A separate Capital Projects Fund is usually established when the project exceeds a single fiscal year, when the financing

sources are provided by more than one fund, or when the capital asset is financed by specifically designated resources.

4. Debt Service Funds—used to account for the accumulation of resources to pay the principal and interest on the general long-term debt that is recorded in the entity's General Long-Term Debt Account Group. A Debt Service Fund may be used for each obligation; however, it should be established only if legally required or if resources are being accumulated to meet future payments. When obligations are paid, on a current basis, by the General Fund or by a Special Fund, there is no need to create a Debt Service Fund unless legally required to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

### §505. Proprietary Funds

A. A Proprietary Fund is used to account for governmental activities that are similar to activities that may be performed by a commercial enterprise. The measurement focus is on the determination of net income, financial position, and changes in financial position. This measurement focus, similar to that found in the private sector, is based on the flow of economic resources; it requires the reporting of all assets and liabilities associated with a particular activity. Within the proprietary fund category are two fund types.

1. Enterprise Funds—used to account for operations when one or both of the following conditions exist:

a. operations are financed and operated in a manner similar to a private business enterprise, where the intent of management is that the costs (expenses, including depreciation) of providing goods or services to the public on a continuing basis are financed or recovered primarily through user charges;

b. management has decided that the periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability or other purposes.

Internal Service Funds—used to account for the financing of goods or services provided by one department or agency to other departments or agencies within the governmental unit, or to other governmental units, on a cost-reimbursement basis. Thus, the objective of an Internal Service Fund is not to make profit, but rather to recover over a period of time the total cost of providing the goods or services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

### §507. Fiduciary Funds

A. Fiduciary Funds are used to account for assets when a governmental unit is functioning either as a trustee or as an agent for another party; they are commonly referred to as trust and agency funds. The trust and agency funds are further divided into four "sub fund types." These subfund types reflect variations in how assets are held and how they may be used.

1. Expendable Trust Funds—used to account for resources held in trust when both principal and earnings may

be spent in their entirety for the purpose or purposes specified in the trust agreement.

2. Nonexpendable Trust Funds—used to account for resources held in trust when only earnings may be expended and the principal must remain intact.

3. Pension Trust Funds—used to account for resources accumulated to finance pension benefits.

4. Agency Funds—used to account for assets held on behalf of others in a custodial capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

#### **§509. Account Groups**

A. Account Groups are groups of accounts used to record and control general fixed assets and unmatured general long-term liabilities. Long-term liabilities of proprietary and trust funds should not be accounted for here but should be kept within those individual funds.

1. General Fixed Assets—capital assets that are not assets of any fund, but of the government unit as a whole. Most often these assets arise from the expenditure of the financial resources of governmental funds. The General Fixed Assets Account Group is a self-balancing group of accounts established to account for fixed assets of a government not accounted for through specific proprietary funds or trust funds. The General Fixed Assets Account Group is not a fund; it does not have a balance sheet as such, nor does it report operations. Instead the General Fixed Assets Account Group, which serves as a list of a government's fixed assets, is designed to ensure accountability and management control of the fixed assets.

2. General Long-Term Debt—normally expected to be repaid from governmental funds. The General Long-Term Debt Account Group is used to accumulate the non-current unmatured portion of long-term obligations; it typically reports the following categories of long-term liabilities:

- a. long-term debt (bonds, notes, capital leases);
- b. unfunded pensions contributions;
- c. claims and judgements;
- d. compensated absences; and
- e. loss contingencies.

The General Long-Term Debt Account Group is not a fund because it does not account for available financial resources or current obligations. Financial resources are neither accumulated nor expended through the General Long-Term Debt Account Group. This account group simply lists all long-term liabilities that are not presented as liabilities of a specific fund. Long-term liabilities presented in the General Long-Term Debt Account Group are generally backed by the full faith and credit of the issuer, which means the debt is secured by the general credit and revenue raising powers of the issuer rather than by the assets acquired or by specific fund resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

### **Chapter 7. Classification of Revenues and Other Sources of Funds**

#### **§701. Revenue Codes**

A. 1000 Revenue From Local Sources

1. 1100 Taxation—compulsory charges levied by the school system to finance services performed for the common benefit.

a. 1110 Ad Valorem Taxes - Gross—amounts levied on the taxable assessed value of real and personal property on a parish-wide basis. By "gross," it is meant that the taxes are recorded at the amount actually collected by the tax collector before deduction for the assessor's compensation and/or deduction for amounts remitted to the retirement systems. Penalties and interest on delinquent taxes are recorded in this account.

i. 1111 Constitutional Tax—the tax that is permitted to be levied by a school system under authority of the 1974 constitution. This tax is in perpetuity; it is not subject to a vote of the electorate. The amount of millage that may be levied varies from parish to parish. This tax is a General Fund revenue.

ii. 1112 Renewable Taxes—taxes that the electorate have authorized the school system to levy for a specified period of time, not to exceed ten (10) years. At the end of the time period specified, the electorate must approve by popular vote an extension, not to exceed ten (10) years, for the tax to be levied again. These taxes may be either General Fund or Special Revenue Fund revenues, depending on their purpose and the manner in which the tax was imposed.

iii. 1113 Debt Service Taxes—taxes that the electorate have authorized the school system to levy for the retirement of general obligation long-term debt. The proceeds are normally placed in the Debt Service Fund.

iv. 1114 Up to 1 percent Collections By the Sheriff On Taxes Other Than School Taxes—The Sheriff and Ex-Officio Tax Collector of each parish is mandated by State law to remit 1 percent of the total qualifying taxes collected within the parish to the Teachers Retirement System of Louisiana for the credit of the parish school system. This amount may be obtained annually from the Tax Collector's office. It is recorded by debiting retirement expenditures and crediting this account. This tax is a General Fund revenue.

b. 1130 Sales and Use Taxes—Gross—taxes assessed by the school system on the taxable sale and consumption of goods and services within the parish. By "gross" it is meant that the taxes are recorded at the amount actually collected before any deduction for the cost of collection. This tax may be a General Fund, Special Revenue Fund, or Debt Service Fund revenue.

2. 1200 Revenue From Local Governmental Units Other Than LEA's is revenue from the appropriations of another governmental unit. The LEA is not the final authority, within legal limits, in determining the amount of money to be received; the money is raised by taxes or other means that are not earmarked for school purposes. This classification could include revenue from townships, municipalities, parishes, etc.

3. 1300 Tuition—revenue from individuals, welfare agencies, private sources and other LEA's for education provided by the LEA.

a. 1310 Tuition From Individuals—amounts paid by students to attend summer school classes. It is irrelevant whether the students reside inside or outside the parish. This revenue is normally a General Fund revenue.

b. 1320 Tuition From Other LEA's—amounts paid by public school systems outside the parish to the school system for educational services rendered by the school system to students from the outside parish. This revenue is normally a General Fund revenue.

c. 1390 Tuition From Other Sources—amounts paid by persons other than individuals and other local education agencies for tuition.

4. 1400 Transportation Fees—revenue from individuals, welfare agencies, private sources, or other LEA's for transporting students to and from school and school activities. Transportation funds received for non-public transportation are to be recorded in 3250 Non-Public Transportation.

a. 1410 Transportation Fees From Individuals—amounts paid by individual persons for transportation services rendered by the school system. This fee is normally a General Fund revenue.

b. 1420 Transportation Fees From Other LEA's—amounts paid by other local education agencies for transportation services rendered by the school system. This fee is normally a General Fund revenue.

c. 1440 Transportation Fees From Other Sources—amounts paid by persons other than individuals and other local education agencies for transportation services rendered by the school system.

5. 1500 Earnings On Investments—revenue from holdings invested for earning purposes. The revenue is credited to the fund that has provided the monies for the investments.

a. 1510 Interest On Investments—interest revenue on temporary or permanent investment in United States treasury bills, notes, savings accounts, checking accounts, time certificates of deposit, mortgages, or other interest-bearing investments.

b. 1540 Earnings On Investment in Real Property—revenue received for renting or leasing, royalties, use charges and other income from real property held for investment purposes.

i. 1541 Earnings From 16th Section Property—amounts charged or received for the use or severance of natural resources from 16th Section properties owned by the school system, including leases under LRS 30:154. This revenue is normally a General Fund revenue.

ii. 1542 Earnings From Other Real Property—amounts charged or received for the use or severance of natural resources from lands other than 16th Section property owned by the school system, including leases under LRS 30:154. This revenue is normally a General Fund revenue.

6. 1600 Food Service—revenues collected by the School Food Service Department for dispensing food to students, adults, and other agencies. This revenue includes funds for "at cost" meals, paying students, contracted meals, and catering revenues.

a. 1610 Income From Meals—revenues collected by the School Food Service Department for meals served to students, adults, or visitors, contract meals, second meals to students, and "at cost" meals.

b. 1620 Income From Extra Meals—revenues collected by the School Food Service Department for extra

servings, catering services, special functions, or sales of milk and juice.

7. 1800 Community Service Activities—charges received from providing community service activities operated by the school system. This fee is a revenue to the fund to which expenditures of operation of the activity are charged.

8. 1900 Other Revenues From Local Sources—other revenue from local sources not classified above.

a. 1910 Rentals—fees charged for the use of school facilities or equipment. These fees are normally a General Fund revenue.

b. 1920 Contributions and Donations—revenue from philanthropic foundations, private individuals, or private organizations for which no repayment or special service to the contributor is expected. The granting person may require that a special accounting be made of the use of the funds provided, a stipulation that may require the use of a Special Revenue Fund or a Trust Fund.

c. 1940 Books and Supplies Sold—revenue received from the sale of such materials and supplies. This revenue is normally a General Fund revenue.

d. 1950 Services Provided Other LEA's—revenues received from other local education agencies other than for tuition and transportation services. This revenue is normally a General Fund revenue.

e. 1960 Services Provided Other Local Governments—fees charged for services rendered to other units of local government. This fee is normally a General Fund revenue.

f. 1970 Services Provided Other Funds—interfund charges for services rendered by one fund to another fund. This account would be used with only Internal Service funds.

g. 1990 Miscellaneous—revenues from other local sources that are not classified above. This revenue is normally a General Fund revenue.

i. 1991 Medicaid Reimbursement—reimbursement received from the Medicaid program for services rendered to qualifying students under the program. This revenue is normally a General Fund revenue.

ii. 1992 Kid Med—fees or reimbursements received for providing EPSDT services to qualifying students. This revenue is normally a General Fund revenue.

iii. 1993 Federal 4-rate (Gross)—reimbursement received as part of the Telecommunications Act of 1996. The federal government set up the Schools and Librarians Universal Service Program with the express purpose of providing affordable access to telecommunications services. This program gives discounts of 20 percent to 90 percent on telecommunication services, internet access, and internal connections.

iv. 1999 Other Miscellaneous Revenues—revenues from other miscellaneous sources not classified above.

B. 3000 Revenue From State Sources

1. 3100 Unrestricted Grants-In-Aid—revenue recorded as grants by the LEA from state funds, which can be used for any legal purpose desired by the LEA without restriction. Separate accounts may be maintained for general grants-in-aid that are not related to specific revenue sources of the state and for those assigned to specific sources of revenue, as appropriate.

a. 3110 State Public School Fund—monies distributed to Louisiana public school systems under the Minimum Foundation Program (MFP). This revenue is a General Fund revenue.

b. 3115 State Public School Fund—monies distributed to Louisiana public school systems under the minimum foundation program (MFP) for food services operations. This revenue is an Other Special Funds revenue.

c. 3120 16th Section Land Fund Interest—interest paid by the State to certain school systems due to the erroneous sale of 16th Section lands during the nineteenth century. The rate of interest is fixed at 4 percent per annum per LRS 41:641.

d. 3190 Other Unrestricted Revenues—other funds distributed by the State to the school systems; these funds are not dedicated, or required to be used for specific purposes. This revenue may be General Fund or Special Revenue Fund revenue.

2. 3200 Restricted Grants-in-Aid—revenue recorded as grants by the LEA from state funds; these funds must be used for a categorical or specific purpose. If such money is not completely used by the LEA, it must be returned, usually, to the State.

a. 3210 Special Education—amounts granted by the State; they are required to be used solely for special education purposes. This revenue may be General Fund or Special Revenue Fund revenue.

b. 3220 Education Support Fund—amounts granted under the 8(g) Mineral Trust Fund by the Board of Elementary and Secondary Education (B.E.S.E.) to be used for specific purposes stated in the grant application. This revenue may be General Fund or Special Revenue Fund revenue.

c. 3223 Sixteenth Section Land Funds (withdrawals)—revenue derived from Sixteenth Section indemnity lands. This revenue is held in trust by the Louisiana Department of Treasury for all school districts involved.

d. 3225 Adult Education—amounts granted by the State under LRS 17:14; it is required that the revenue be used solely for adult education purposes. This revenue may be General Fund or Special Revenue Fund revenue.

e. 3230 PIP—funds granted by the State to school systems for paying professional improvement program (PIP) salaries to qualifying teachers in the systems. This revenue is normally General Fund revenue.

f. 3250 Non-Public Transportation—amounts granted by the State for which payment is made to the LEA upon receipt of an agreement between the LEA and the non-public school system to provide transportation of non-public students to non-public schools by the use of the LEA's transportation system. This revenue is normally a General Fund revenue.

g. 3255 Non-Public Textbook—amounts granted by the State to reimburse LEA's for purchases of textbooks on behalf of non-public schools. This revenue is normally a General Fund revenue.

h. 3260 Part C/Infant Toddler (Child Search)—funds granted by the State for purposes of ensuring that qualifying Part C -Infant/Toddlers (0-2 year olds) are identified.

i. 3290 Other Restricted Revenues—other restricted revenues received from the State, other than those described

above; these funds must be used for a categorical or specific purpose.

3. 3800 Revenue in Lieu of Taxes—commitments or payments made out of general revenues by a state to the LEA in lieu of taxes it would have had to pay had its property or other tax base been subject to the taxation by the LEA on the same basis as privately owned property. It would include payment made for privately owned property that is not subject to taxation on the same basis as other privately owned property due to action by the State.

a. 3810 Revenue Sharing—Constitutional Tax—funds appropriated annually by the State Legislature to fulfill its constitutional obligation to compensate local school systems partially for tax revenue lost due to homestead exemptions on the constitutional Ad Valorem tax. This revenue is normally General Fund revenue.

b. 3815 Revenue Sharing—Other Taxes—funds appropriated annually by the State Legislature to fulfill its constitutional obligation to compensate local school systems partially for tax revenue lost due to homestead exemptions on Ad Valorem taxes other than the constitutional Ad Valorem tax. This revenue is normally revenue to the fund associated with the particular Ad Valorem tax.

c. 3820 Revenue Sharing—Excess Portion—a distribution made by the Tax Collector to qualifying taxing authorities with remaining State revenue-sharing funds after all other required distributions have been made. This revenue is normally General Fund revenue.

d. 3890 Other Revenue in Lieu of Taxes—other commitments or payments made by the State in lieu of taxes.

4. 3900 Revenue for/on Behalf of LEA—commitments or payments made by a state for the benefit of the LEA, or contributions of equipment or supplies. Such revenue includes the payment to a pension fund by the State on behalf of an LEA employee for services rendered to the LEA and a contribution of fixed assets by a State unit to the LEA.

a. 3910 Employer's Contribution to Teachers Retirement—direct payments made by the State to the Teachers Retirement System for persons receiving PIP salaries. It is recorded by debiting retirement expenditures and crediting this account. This revenue is a General Fund Revenue.

b. 3990 Other Revenue for/on Behalf of the LEA—other commitments or payments made by the State for the benefit of the LEA.

#### C. 4000 Federal Sources

1. 4100 Unrestricted Grants-in-Aid Direct from the Federal Government—revenues direct from the Federal Government as grants to the LEA; this revenue can be used for any legal purpose desired by the LEA, without restriction.

a. 4110 Impact Aid Fund—amounts paid directly by the Federal Government to the LEA to supplement the education of children from families stationed at military bases who attend the LEA's public schools under P. L. 81-874. This revenue is normally a General Fund Revenue.

b. 4190 Other Unrestricted Grants—Direct—other revenues direct from the Federal Government other than those programs described above.

2. 4200 Unrestricted Grants-in-Aid from the Federal Government Through the State—revenues from the Federal



Government through the State as grants that can be used for any legal purpose desired by the LEA, without restriction.

a. 4210 Flood Control—amounts received from the Federal Government and distributed by the State for flood control to the LEA.

b. 4290 Other Unrestricted Grants Through State—other revenues received from the Federal Government through the State other than those classified above.

3. 4300 Restricted Grant-in-Aid Direct from the Federal Government—revenue direct from the Federal Government as grants to the LEA; the revenue may be used for a categorical or specific purpose. If such money is not completely used by the LEA, it usually is returned to the governmental unit.

a. 4310 Federally Affected Areas – Capital Outlay (P. L. 81–815) – Amounts paid directly by the Federal Government to the LEA for purchase of capital assets under provisions of P. L. 81–815. This revenue is normally a Special Revenue Fund revenue, since an accounting must be made to demonstrate appropriate use of the proceeds received.

b. 4320 Vietnamese and Refugee Program Fund – The Vietnamese and Refugee Program Fund accounts for a program that provides financial assistance to State and local educational agencies to meet special education needs of eligible refugee children enrolled in elementary and secondary schools.

c. 4330 ROTC – Amount paid directly to the LEA for operation of a Reserve Officer Training Corps (ROTC) program at schools in the district. This is revenue to the fund that pays the expenditures of the ROTC program.

d. 4340 Headstart Program – Amount paid directly to the LEA for operation of the Headstart program in the district. This is revenue to the fund that pays the expenditures of the Headstart program.

e. 4390 Other Restricted Grants – Direct – Funds received from the Federal Government other than those shown above.

4. 4500 Restricted Grants–in–Aid from the Federal Government Through the State - Revenues from the Federal Government through the State as grants to the LEA; this revenue must be used for a categorical or specific purpose.

a. 4510 Vocational Education – Federal funds granted to the local education agency and administered by the State under the Carl D. Perkins Vocational Act Education Program. These monies are reimbursement type grants.

b. 4515 School Food Service – All federal funds administered by the State and granted to the School Food Service Department for subsidies for all student meals in the National School Lunch and School Breakfast Programs, Summer Food Service Program, Child and Adult Care Food Program, and the Nutrition, Education, and Training Program. This revenue also includes funds from the Cash in Lieu of Commodities Program. The value of USDA commodities received should be recorded in 4220 Value of USDA Commodities.

c. 4520 Adult Basic Education – All federal funds administered by the State and granted to the LEA for purposes of providing Adult Basic Education (ABE).

d. 4530 Special Education – All federal funds administered by the State and granted to the LEA for students identified as being mentally or physically disabled.

i. 4531 IDEA–Part B – Federal funds administered by the State and granted to the LEA for special education purposes under the Individuals with Disabilities Education Act (IDEA). This revenue is generally a Special Revenue Fund revenue.

ii. 4532 IDEA–Preschool – Federal funds administered by the State and granted to the LEA for all pre-school special education children under the Individuals with Disabilities Education Act (IDEA). This revenue is generally a Special Revenue Fund revenue.

iii. 4533 IASA – Federal funds administered by the State and granted to the LEA under the Title I program for handicapped children under the Improving America's Schools Act (IASA). This revenue is generally a Special Revenue Fund revenue.

iv. 4534 IDEA Part c –Infant/Toddler – Federal funds administered by the State and granted to the LEA for all children ages 0–2. This revenue is generally a Special Revenue Fund revenue.

v. 4535 Other Special Education Programs – All other federally funded program grants administered by the State and granted to the LEA for special education purposes, other than those described above. This revenue is generally a Special Revenue Fund revenue.

e. 4540 Improving America's Schools Act (IASA) – Federal funds administered by the State and granted to the LEA for programs for economically and educationally deprived school children.

i. 4541 Title I Grants to Local Educational Agencies – Federal funds administered by the State to provide a program for economically and educationally deprived children; the funds supplement rather than supplant activities that are state or locally mandated. This revenue is normally a Special Revenue Fund revenue.

ii. 4542 Title I, Part C – Migrant Education Basic State Grant Program – Federal funds administered by the State to provide programs to meet the special education needs of children of migratory agricultural workers and migratory fishers, needs that have resulted from their migratory lifestyles or history.

iii. 4543 Title VI Innovative Education Program Strategies – Federal funds administered by the State to provide various types of programs that the school board may institute with the approval of the State Department of Education. This revenue is normally a Special Revenue Fund revenue.

iv. 4544 Title IV – Safe and Drug Free Schools and Communities State Grants – Federal funds administered by the State to educate children to prevent drug abuse. This revenue is normally a Special Revenue Fund revenue.

v. 4545 Title II – Eisenhower Professional Development State Grants – Federal funds administered by the State to provide financial assistance to improve the skills of teachers in mathematics and science. This revenue is normally a Special Revenue Fund revenue.

vi. 4546 Other IASA Programs – All other federally funded program grants administered by the State and granted to the LEA under the improving America's Schools Act other than those described above. This revenue is generally a Special Revenue Fund revenue.

f. 4550 Job Training Partnership Act (JTPA) – Federal funds administered by the State under the Job

Training Partnership Act Program. This revenue is normally a Special Revenue Fund revenue.

g. 4580 FEMA – Disaster Relief – Federal funds administered by the State to provide financial assistance to an LEA for repairs and/or rebuilding necessary after a natural disaster.

h. 4585 Starting Points Program – Federal funds administered by the State to provide financial assistance for pre-school programs designed to provide quality education to children whose parents are enrolled in job-training programs.

i. 4590 Other Restricted Grants Through State – Federal funds administered by the State other than those shown above.

5. 4800 Revenue in Lieu of Taxes - Commitments or payments made out of general revenues by the Federal Government to the LEA in lieu of taxes it would have had to pay had its property or other tax base been subject to taxation by the LEA on the same basis as privately owned property or other tax base. Such revenue would include payment made for privately owned property that is not subject to taxation on the same basis as other privately owned property because of action by the Federal Governmental unit.

a. 4810 Loss of Taxes Because of Federal Housing Projects – Federal payments in lieu of taxes made directly to the LEA because of the existence of a Federally-funded housing project in the district, the location of which causes a loss of Ad Valorem tax revenue. This revenue is normally pro-rated to the funds that record the affected Ad Valorem tax revenues.

b. 4820 Sale of Timber, etc., On Federal Forest Reserves – Federal payments in lieu of taxes made directly to the LEA because of the existence of a federal forest reserve in the district and for which the Federal Government has agreed to share a portion of the revenues derived from the sale of timber or other products contained thereon. This revenue is normally a General Fund Revenue.

c. 4890 Other Revenue in Lieu of Taxes – Other revenue in lieu of taxes made directly to the LEA, other than those described above.

6. 4900 Revenue for/on Behalf of the LEA - Commitments or payments made by the Federal Government for the benefit of the LEA, or contributions of equipment or supplies. Such revenue includes a contribution of fixed assets by a Federal governmental unit to the LEA and funds donated by the Federal Government to the LEA.

a. 4910 Nonfood Assistance – Federal assistance received in terms of non-cash and non-food type items granted directly to the LEA. This revenue is recorded by debiting the appropriate expenditure account that would have been charged had the LEA purchased the particular item and by crediting this account.

b. 4920 Value of USDA Commodities – Federal assistance received by the School Food Service Department in terms of the stated value of United States Department of Agriculture commodities. This revenue is recorded by debiting the appropriate food account and by crediting this account.

c. 4990 Other Revenues for/on Behalf of the LEA – Other commitments or payments made by the Federal

Government for the benefit of the LEA or contributions of equipment or supplies, other than those described above.

D. 5000 Other Sources of Funds

1. 5100 Sale of Bonds - The proceeds from the sale of bonds.

a. 5110 Bond Proceeds – Principal received through the issuance of a debt instrument by the LEA. This revenue is normally accounted for in the fund that will expend the proceeds from the debt issuance (e.g., Capital Projects Funds).

b. 5120 Accrued Interest and Premium on Bonds Sold – Amounts received for accrued interest from the sale of bonds and/or that portion of the sales price of bonds in excess of their par value. This revenue is normally credited to the fund that is responsible for payment of the principal and interest on the debt.

2. 5200 Interfund Transfers - Amount available from another fund that will not be replaced.

a. 5210 Transfer of Indirect Costs – Amounts of indirect costs transferred from direct federal grants, usually to the General Fund.

b. 5220 Operating Transfers In – Interfund transfers made by the LEA from one fund to another that does not carry a corresponding obligation on the receiving fund to repay the amount to the paying fund. This account is credited by the receiving fund, while the paying fund debits Fund Transfers Paid in the Other Use of Funds Section.

3. 5300 Sale or Compensation for Loss of Fixed Assets - Amounts available from the sale of school property or compensation for the loss of fixed assets.

a. 5310 Sale of Surplus Items/Fixed Assets – Amounts received by the LEA for the sale of land, buildings, improvements, furniture or equipment. This revenue is normally revenue to the fund which had originally purchased the fixed assets.

b. 5320 Insurance Proceeds from Losses – Amounts received by the LEA from an insurance company to compensate for the fire, theft, or other casualty to fixed assets. This revenue is normally revenue to the fund that had originally purchased the items.

c. 5330 Collection for Lost or Damaged Textbooks – Amounts received by the LEA from students (or parents) for textbooks that have been lost or stolen. This revenue is normally revenue to the fund that originally purchased textbooks.

4. 5400 Loans - Proceeds from loans greater than twelve (12) months.

5. 5500 Capital Lease - Amount equal to the present value of minimum lease payments arising from capital lease agreements entered into by the LEA. This revenue is recorded by debiting the associated expenditures account and by crediting this account. Corresponding entries should be made in the General Fixed Asset and General Long-Term Debt Account Groups.

6. 5600 Judgments – Amounts received as a result of a court order or judgment in favor of the LEA. This revenue is normally a revenue to the fund that expended monies to rectify the claim or paid the associated legal fees relative to the action that gave rise to the favorable judgment.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

## **Chapter 9. Classification of Expenditures and Other Uses of Funds**

### **§901. Object Codes**

A. This dimension is used to describe the service or commodity obtained as the result of a specific expenditure. There are nine major object categories, each of which is further subdivided. Listed below are definitions of the object classes and selected sub-object categories.

B. 100 Salaries - Amounts paid to both permanent and temporary LEA employees, including personnel substituting for those in permanent positions. This expenditure includes gross salary for personal services rendered while on the payroll of the LEA's.

1. 110 Salaries of Regular Employees - Full-time, part-time, and prorated portions of the costs for work performed by permanent employees of the LEA.

a. 111 Officials/Administrators/Managers - These are occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the school system. Included in this category are superintendents of schools; assistant, deputy and associate superintendents; instructional coordinators, supervisors and directors; principals and assistant principals; and school business officials.

b. 112 Teachers - Staff members assigned the professional activities of instructing pupils in courses in classroom situations for which daily-pupil attendance figures for the school system are kept. Included in this category are music, band, physical education, home economics, librarians, special education, etc.

c. 113 Therapists/Specialists/Counselors - Staff members responsible for teaching or advising pupils with regard to their abilities and aptitudes, educational and occupational opportunities, personal and social adjustments. Included in this category are speech therapists, occupational therapists, physical therapists, guidance counselors, psychologists, social workers, assessment teachers/diagnosticians, and instructional specialists.

d. 114 Clerical/Secretarial - These are occupations requiring skills and training in all clerical-type work including activities such as preparing, transcribing, systematizing, or preserving written communication and reports, or operating such mechanical equipment as bookkeeping machines, typewriters and tabulating machines. Included in this category are bookkeepers, messengers, office machines operators, clerk-typist, stenographers, statistical clerks, dispatchers, and payroll clerks.

e. 115 Aides - Staff members working with students under the direct supervision of a classroom teacher or under the direct supervision of a staff member performing professional-educational-teaching assignments on a regular schedule. Included in this category are teacher aides, library aides, bus aides, etc.

f. 116 Service Workers - Staff members performing a specialized service; included in this category are cafeteria workers, bus drivers, school security guards, custodians, etc.

g. 117 Skilled Crafts - Occupations in which workers perform jobs that require special manual skill and a thorough and comprehensive knowledge of the process

involved in the work, which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Included in this category are mechanics, electricians, heavy equipment operators, carpenters, etc.

h. 118 Degreed Professionals - Occupations requiring a high degree of knowledge and skills acquired through at least a baccalaureate degree or its equivalent. This classification normally includes nurses, architects, lawyers, accountants, etc.

i. 119 Other Salaries - Other staff members other than those classified above.

2. 120 Salaries of Temporary Employees - Full-time, part-time, and prorated portions of the costs for work performed by employees of the LEA who are hired on a temporary or substitute basis.

a. 121 Acting Employee - The cost of work performed by a person who is temporarily taking over the duties or position of a regular employee.

b. 122 Seasonal Employee - The cost of work performed by a person who is hired on a temporary basis usually not more than five months which is affected by or dependent on a certain time of year.

c. 123 Substitute Employee - The cost of work performed by a person who is hired on a day-by-day basis in place of a regular employee.

d. 129 Other Temporary Employee - Temporary employees other than those classified above.

3. 130 Salaries for Overtime - Amounts paid to employees of the LEA in either temporary or permanent positions for work performed in addition to the normal work period for which the employee is compensated under regular salaries and temporary salaries above. The terms of such payment for overtime are a matter of State and local regulations and interpretation.

4. 140 Salaries for Sabbatical Leave - Amounts paid by the LEA to employees on sabbatical leave.

5. 150 Stipend Pay - A one-time payment or allowance to regular employees to attend workshops or in service training programs.

C. 200 Employee Benefits - Amounts paid by the LEA on behalf of employees; these amounts are not included in the gross salary, but are in addition to that amount. Such payments are fringe benefit payments and, while not paid directly to employees, are, nevertheless, part of the cost of personal services. Such amounts must be distributed to each function according to the employee's assignment.

1. 210 Group Insurance - Employer's share for current employees of any insurance plan. Group insurance for retirees should be reported under object code 270: Health Benefits.

2. 220 Social Security Contributions - Employer's share of Social Security paid by the LEA. (FICA)

3. 225 Medicare/Medicaid contributions - Employer's share of Medicare/Medicaid paid by the LEA.

4. 230 Retirement Contribution - Employer's share of any State or local employee retirement system paid by the LEA, including the amount paid for employees assigned to federal programs.

a. 231 Louisiana Teachers' Retirement System Contributions (TRS)

b. 233 Louisiana School Employees' Retirement System Contributions (LSERS)

c. 235 Louisiana Parochial School Employees' Retirement System Contributions (LPERS)

d. 239 Other Retirement Contributions

5. 240 Tuition Reimbursement - Amounts reimbursed by the LEA to any employee qualifying for tuition reimbursement based upon LEA policy.

6. 250 Unemployment Compensation - Amounts paid by the LEA to provide unemployment compensation for its employees.

7. 260 Workmen's Compensation - Amounts paid by the LEA to provide workmen's compensation insurance for its employees.

8. 270 Health Benefits - Amounts paid by the LEA to provide health benefits for employees now retired and for whom benefits are paid.

9. 280 Sick Leave Severance Pay - Amounts of unused sick leave paid by the LEA to its employees upon their retirement.

10. 290 Other Employee Benefits - Employee benefits other than those classified above.

D. 300 Purchased Professional and Technical Services - Services which, by their nature, can be performed only by persons or firms with specialized skills and knowledge. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 310 Purchased Official/Administrative Services - Services in support of the various policy-making and managerial activities of the LEA. Included would be management consulting activities oriented to general governance or business and financial management of the LEA; school management support activities; election and tax assessing and collecting services. This object code is usually used with functions 2300 General Administration and 2400 School Administration.

a. 311 Assessor Fees - Money paid to the tax assessor, who assesses property for taxation.

b. 312 Sheriff Fees - Money paid to the local sheriff, who is charged with the collection and remittance of property taxes to the LEA.

c. 313 Pension Fund - Monies deducted from the proceeds of property taxes for the payment of all pensions into the Pension Accumulation Fund (L. R. S. 17:696).

d. 314 Sales Tax Collection Fees - Money paid to another individual or other governmental body charged with the collection and remittance of sales and use taxes.

e. 315 State Tax Commission Fees - Money paid to the Louisiana Tax Commission pursuant to a judgment upheld by the courts against a company that files suit to contest the correctness or legality of any final determination of its assessed valuation for taxation. The fee is an amount equal to ten percent (10%) of the proceeds received (L. R. S. 47:1856f).

f. 316 Election Fees - Money paid to other governmental agencies for expenses related to the election of school board members, as well as elections for the purpose of collecting tax revenues.

g. 317 Management Consultants - Money paid to an individual or firm to study and evaluate the activities of the school system.

h. 319 Other Fees - Official and administrative services other than those classified above.

2. 320 Purchased Educational Services - Services supporting the instructional program and its administration. Included would be curriculum improvement services, counseling and guidance services, library and media support and contracted instructional services. Also included would be payments to speakers to make presentations at workshops and in service training programs. This object code is usually used with functions 1000 Instruction, 2100 Pupil Support Services, and 2200 Instructional Staff Services.

3. 330 Other Purchased Professional Services - Professional services which support the operation of the LEA other than educational services. Included are medical doctors, lawyers, architects, auditors, accountants, therapists, audiologists, dieticians, editors, negotiations specialists, systems analysts, planners, and the like. This object code is usually used with function 2000 Support Services.

a. 331 Occupational/Physical Therapist Services - Professional services contracted or paid by the LEA for treatment of an injury by physical activity rather than with drugs or for the treatment of mental ailments by work designed to divert the mind.

b. 332 Legal Services - Professional services contracted or paid by the LEA to defend itself against lawsuits and to assist the LEA's in conforming with the law.

c. 333 Audit/Accounting Services - Professional services contracted or paid by the LEA to examine and check the financial operations of the school system, as well as to provide assistance in keeping, analyzing and explaining accounts.

d. 334 Architect/Engineering Services - Professional services contracted or paid by the LEA to design buildings, to draw up the plans, and generally to supervise the construction.

e. 335 Medical Doctors - Professional services contracted or paid by the LEA to provide medical services such as a physical for employees or for students that want to participate in athletics.

f. 339 Other Professional Services - Professional services other than those classified above.

g. 340 Purchased Technical Services - Services to the LEA which are not regarded as professional, but which require basic scientific knowledge, manual skills, or both. Included are data processing services, banking services, purchasing and warehousing services, graphic arts and the like. This object code is used usually with functions 1000 Instruction and 2000 Support Services.

E. 400 Purchased Property Services - Services purchased to operate, repair, maintain, and rent property owned or used by the LEA. These services are performed by persons other than LEA employees. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 410 Utility Services - Expenditures for utility services other than energy services supplied by public or private organizations. Water and sewerage are included here. Telephone and telegraph are not included here, but are classified under object 530 Telephone and Postage. This object code is used with only function 2600 Operations and Maintenance of Plant Services.

a. 411 Water/Sewage -Expenditures for water/sewage utility services from a private or public utility company.

2. 420 Cleaning Services - Services purchased to clean buildings (apart from services provided by LEA employees). This object code is used with only function 2600 Operations and Maintenance of Plant Services.

a. 421 Disposal Services – Expenditures for garbage pickup and handling not provided by LEA personnel.

b. 422 Snow Plowing Services – Expenditures for snow removal not provided by LEA personnel.

c. 423 Custodial Services – Expenditures to an outside contractor for custodial services.

d. 424 Lawn Care – Expenditures for lawn and grounds upkeep, minor landscaping, nursery services and the like not provided by LEA personnel.

3. 430 Repairs and Maintenance Services - Expenditures for repairs and maintenance services not provided directly by LEA personnel. This expenditure includes contracts and agreements covering the upkeep of buildings, upkeep of equipment, including computers and related technology, and portable building relocation expenses. Costs for renovating and remodeling are not included here but are classified under object 450 Construction Services.

4. 440 Rentals - Costs for renting or leasing land, buildings, equipment, and vehicles.

a. 441 Renting Land and Buildings – Expenditures for leasing or renting land and buildings for both temporary and long-range use by the LEA. This object code is used with function 2600 Operations and Maintenance of Plant Services or other appropriate programs.

b. 442 Rental of Equipment and Vehicles – Expenditures for leasing or renting equipment or vehicles for both temporary and long-range use by the LEA. This expenditure includes bus and other vehicle rental when operated by a local LEA, lease-purchase arrangements, and similar rental agreements. This object code is usually used with function 1000 Instruction or 2000 Support Services, and appropriate program code.

5. 450 Construction Services – Expenditures for constructing, renovating and remodeling paid to contractors. This object code includes the installation of new phone lines or cable to provide Internet access. It is used only with functions 4500 Building Acquisition and Construction Services, and 4600 Building Improvement Services.

6. 490 Other Purchased Property Services - Purchased property services that are not classified above. Costs for telephone and telegraph are not included here, but are included in object 530 Telephone and Postage. This object code is used usually with function 2600 Operations and Maintenance of Plant Services.

F. 500 Other Purchased Services - Amounts paid for services rendered by organizations or personnel not on the payroll of the LEA (separate from professional and technical services or property services). While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 510 Student Transportation Services - Expenditures for transporting children to and from school and other

activities. This object code is used with only function 2700 Student Transportation Services.

a. 511 Student Transportation Purchased from Another LEA within the State – Amounts paid to other LEAs within the state for transporting children to and from school and school-related events. Expenditures for the rental of buses that are operated by personnel on the LEA payroll are recorded not here, but under object code 442 Rental of Equipment and Vehicles.

b. 512 Student Transportation Purchased from Another LEA outside the State – Payments to other LEAs outside the State for transporting children to and from school and school-related events.

c. 513 Payments in Lieu of Transportation – Payments to individuals who transport themselves or their own children or for reimbursement of transportation expenses on public carriers.

d. 519 Student Transportation Purchased from other Sources – Payments to persons or agencies other than LEAs for transporting children to and from school and school-related events.

2. 520 Insurance (Other than Employee Benefits) - Expenditures for all types of insurance coverage, including property, liability, and fidelity. Insurance for group health should be recorded under object 200 Employee Benefits.

a. 521 Liability Insurance – Insurance that pays and renders service on behalf of the LEA for loss arising out of its responsibility, due to negligence, to others as imposed by law or assumed by contract.

b. 522 Property Insurance – Insurance that indemnifies the LEA with an interest in physical property for its loss or the loss of its income producing ability.

c. 523 Fleet Insurance – Insurance that protects the LEA against any physical damage to its vehicles, property damage, liability and/or other coverages.

d. 524 Errors and Omissions Insurance – Professional liability insurance that protects the LEA against legal liability resulting from negligence, errors and omissions, and other aspects of rendering or failing to render professional service. It does not cover fraudulent, dishonest or criminal acts.

e. 525 Faithful Performance Bonds – A bond that will reimburse the LEA for loss up to the amount of the bond, sustained by the LEA by reason of any dishonest act of an employee or employees covered by the bond.

f. 529 Other Insurance – Payments for insurance other than those classified above.

3. 530 Telephone and Postage - Expenditure for services provided by persons or businesses to assist in transmitting and receiving messages or information. This category includes telephone and telegraph services, postage machine rental and postage, and Internet access charges via telephone lines or cable. This object code is used usually with functions 2300 General Administration or 2400 School Administration. This object code may be used with 1900 Instructional Technology.

4. 540 Advertising - Expenditures for announcements in professional publications, newspapers or broadcasts over radio and television. These expenditures include advertising for such purposes as personnel recruitment, legal ads, new and used equipment, and sale of property. Costs for professional advertising or public relations services should

be charged to object 330 Other Purchased Professional Services. This object code is used usually with functions General Administration, 2500 Business Services , or 2800 Central Services.

5. 550 Printing and Binding - Expenditures for job printing and binding, usually according to specifications of the LEA. This expenditure includes designing and printing forms and posters as well as printing and binding LEA publications. Pre-printed standard forms should be recorded under object 610 Materials and Supplies. This object code is used usually with function 2500 Business Services.

6. 560 Tuition - Expenditures to reimburse other educational agencies for providing instructional services for students residing within the legal boundaries of the paying LEA. This object code is used with only function 1000 Instruction.

a. 561 Tuition to Other in State LEA's – Tuition paid to other LEAs within the State.

b. 562 Tuition to Other LEA's Outside the State – Tuition paid to other LEAs outside the State.

c. 563 Tuition to Private Sources – Tuition paid to private schools.

d. 564 Tuition to Intermediate Education Agencies within the State.

e. 565 Tuition to Intermediate Education Agencies outside the State.

f. 569 Other Tuition – Tuition paid to other governmental organizations as reimbursement for providing specialized instructional services to students residing within the boundaries of the paying LEA.

7. 570 Food Service Management - Expenditures for the operation of a local food service facility by other than employees of the LEA. Included are contracted services, such as food preparation, associated with the food service operation. Direct expenditures by the LEA for food, supplies, labor and equipment would be charged to the appropriate object codes. This object code is used with only function 3100 Food Service Operations.

8. 580 Travel - Expenditures for transportation, meals, hotel, and other expenses associated with staff travel for the LEA. Payments for per diem in lieu of reimbursements for subsistence (room and board) also are charged here. This object code is used with all functions except 5000 Other Sources of Funds.

a. 581 Mileage Allowance – A sum of money granted at stated intervals for travel expenses in lieu of reimbursement for actual travel expenses.

b. 582 Travel Expense Reimbursement – A sum of money paid for travel expenses at a specified amount per mile plus actual reimbursement for meals, hotel and other expenses.

c. 583 Operational Allowance – A sum of money granted to those individuals at stated intervals for the operation and maintenance of a vehicle.

9. 590 Miscellaneous Purchased Services - Expenditures for purchased services other than those described above. Any inter-district payments other than tuition should be classified here.

a. 591 Services Purchased Locally – Expenditures for purchased services not otherwise classified in the 300 Purchased Professional and Technical Services, 400

Purchased Property Services, or 500 Other Purchased Services series of objects. This object code is used with all functions except 5000 Other Sources of Funds.

b. 592 Services Purchased from Another LEA within the State – Payments to another LEA within the state for services rendered, other than tuition and transportation fees. Examples of such services are data processing, purchasing, nursing and guidance. When a question arises as to whether to code such payments to the 300 series of object code, purchased professional and technical services, or to this code, 592 should be used so that all inter-district payments can be eliminated when consolidating reports from multiple LEA's at state and federal levels. This code is used with only function 2000 Support Services.

c. 593 Services Purchased from Another LEA outside the State – Payments to another LEA outside the state for services rendered, other than tuition and transportation fees. Examples of such services are data processing, purchasing, nursing and guidance. When a question arises as to whether to code such payments to the 300 series of object codes or to this code, 593 Services Purchased from Another LEA within the State should be used so that all inter-district payments can be eliminated when consolidating reports at the federal level. This object code is used with only function 2000 Support Services.

G. 600 Supplies - Amounts paid for items that are consumed, worn out, or deteriorated through use; or for items that lose their identity through fabrication or incorporation into different or more complex units or substances. Refer to Appendix D for the criteria for distinguishing between a supply and an equipment item.

1. 610 Materials and Supplies - Expenditures for all supplies (other than those listed below) for the operation of an LEA, including freight and cartage. A more thorough classification of supply expenditures is achieved by identifying the object with the function: for example, audiovisual supplies or classroom teaching supplies. See Appendix A. This object code is used with all functions except 5000 Sources of Funds.

2. 620 Energy - Expenditures for energy – including gas, oil, coal, gasoline, and services received from public or private utility companies.

a. 621 Natural Gas – Expenditures for gas utility services from a private or public utility company. This object code is used with functions 1000 Instruction, 2600 Operations and Maintenance of Plant Services, and 3100 Food Services Operations.

b. 622 Electricity – Expenditures for electric utility services from a private or public utility company. This object code is used usually with functions 1000 Instruction, and 2600 Operations and Maintenance of Plant Services.

c. 623 Bottled Gas – Expenditures for bottled gas, such as propane gas received in tanks. This object code is used with functions 1000 Instruction, 2600 Operations and Maintenance of Plant Services, 3100 Food Services Operations.

d. 624 Oil – Expenditures for bulk oil normally used for heating. This object code is used with only function 2600 Operations and Maintenance of Plant Services.

e. 625 Coal – Expenditures for raw coal normally used for heating. This object code is used with only function 2600 Operations and Maintenance of Plant Services.

f. 626 Gasoline – Expenditures for gasoline purchased in bulk or periodically from a gasoline service station. This object code is used usually with functions 2600 Operations and Maintenance of Plant Services and 2700 Student Transportation Services.

g. 629 Other – Expenditures for energy that cannot be classified in one of the foregoing categories.

3. 630 Food - Expenditures for food used in the school food service program. This object code is used with only function 3100 Food Services Operations. Food used in instructional programs is charged under object code 610 Materials and Supplies.

a. 631 Purchased Food – Food that is purchased from vendors rather than food received from the U.S. Department of Agriculture.

b. 632 Commodities – Food that is passed through the State Department of Agriculture from the U.S. Department of Agriculture.

4. 640 Books and Periodicals - Expenditures for books, textbooks and periodicals prescribed and available for general use, including reference books. This category includes the cost of workbooks, textbook binding or repairs, as well as textbooks that are purchased to be resold or rented. Also recorded here are the costs of binding or other repairs to school library books. This object code is used with all functions except 5000 Other Use of Funds.

a. 641 Library Books – A collection of books systematically arranged for reading or reference.

b. 642 Textbooks – A book giving instructions in the principles of a subject of study or any book used as the basis or partial basis of a course of study.

c. 643 Workbooks – A book for the use of students. It contains questions and exercises based on a textbook or course of study.

d. 644 Periodicals – A publication appearing at regular intervals of more than one day, as a weekly magazine.

H. 700 Property - Expenditures for acquiring fixed assets, including land or existing buildings; improvements of grounds; initial equipment; additional equipment; and replacement of equipment.

1. 710 Land and Improvements - Expenditures for the purchase of land and the improvements thereon. Purchases of air rights, mineral rights and the like are included here. Also included are special assessments against the LEA for capital improvements such as streets, curbs and drains. Not included here, but generally charged to object codes 450 Construction Services or 340 Technical Services as appropriate, are expenditures for improving sites and adjacent ways after acquisition by the LEA. This object code is used with only functions 4100 Site Acquisition services and 4200 Site Improvement Services.

2. 720 Buildings - Expenditures for acquiring existing buildings. Included are expenditures for installment or lease payments (except interest) that have a terminal date and that result in the acquisition of buildings, except payments to public school-housing authorities or similar agencies. This object code is used with only function 4500 Building Acquisition and Construction Services. Expenditures for the contracted construction of buildings, for major permanent structural alterations, and for the initial or additional installation of heating and ventilating systems, fire

protection systems, and other service systems in existing buildings are recorded under object code 450 Construction Services. Buildings built and alterations performed by the LEAs own staff are charged to object code 100 Salaries, 200 Employee Benefits, 610 Materials and Supplies, and 730 Equipment, as appropriate.

3. 730 Equipment - Expenditures for initial, additional, and replacement items of equipment, such as machinery, furniture and fixtures, computers and vehicles. For clarification as to whether an item is to be classified as equipment or supplies, refer to Appendix A.

a. 731 Machinery – Expenditures for equipment usually composed of a complex combination of parts (excluding vehicles). An example would be a lathe, drill press, or printing press.

b. 732 Vehicles – Expenditures for equipment used to transport persons or objects. Examples are automobiles, trucks, buses, station wagons, and vans.

c. 733 Furniture and Fixtures – Expenditures for equipment used for sitting; as a support for writing and work activities; and as storage space for material items. This object code is used with all functions, except 5000 Other Use of Funds.

d. 739 Other Equipment – Expenditures for all other equipment not classified elsewhere in the 730 Equipment.

4. 740 Depreciation - The portion of the cost of a fixed asset that is charged as an expense during a particular period. In accounting for depreciation, the cost of a fixed asset, less any salvage value, is apportioned over the estimated service life of such an asset, and each period is charged with a portion of such cost. Through this process, the cost of the asset is ultimately charged off as an expense. In accordance with GAAP, using depreciation is required in proprietary funds only.

I. 800 Other Objects - Amounts paid for goods and services not otherwise classified above.

1. 810 Dues and Fees - Expenditures or assessments for membership in professional or other organizations or payments to a paying agent for services rendered. This object code is used with functions 1000 Instruction and 2000 Support Services.

2. 820 Judgments Against the LEA - Expenditures from current funds for all judgments (except as indicated below) against the LEA that are not covered by liability insurance, but are of a type that might have been covered by insurance. Only amounts paid as the result of court decisions are recorded here. Judgments against the LEA resulting from failure to pay bills or debt service are recorded under the appropriate expenditure accounts, as though the bills or debt service had been paid when due. This object code is used with function 2300 General Administration.

3. 830 Interest - Expenditures for interest on bonds or notes. This object code is used with function 2500 Business Services and 5100 Debt Service.

4. 840 Contingency - This account is provided for budgeting appropriations. Expenditures to be paid from the contingency should be charged to the appropriate function and object classification. This object code is used with function 2300 General Administration or may be used with all functions except 5000 Other Use of Funds.

5. 890 Miscellaneous Expenditures - Amounts paid for goods or services not properly classified in one of the

objects included above. Refunds of prior year's expenditures are charged to this account.

J. 900 Other Uses of Funds - This series of object codes is used to classify transactions that are not properly recorded as expenditures to the LEA but require budgetary or accounting control. These transactions include redemption of principal and interest on long-term debt, housing authority obligations, and fund transfers.

1. 910 Redemption of Principal - Outlays from current funds to retire serial bonds and long-term loans. This object code is used with only function 5100 Other Uses of Funds.

2. 915 Payments to Escrow Agent - Funds transferred to an escrow agent to be held in trust for the repayment of refinanced bonds.

3. 920 Housing Authority Obligations - Outlays from current funds to satisfy housing authority obligations of the LEA. A public school housing authority is a public or quasi-public corporation having power to issue authority bonds for public school purposes, construct public school buildings, lease public school buildings to local public school administrative units, or transfer title to such units. All expenditures of this nature are classified in this category. This object code is used with function 5100 Other Uses of Funds.

4. 930 Interfund Transactions - Transactions between funds that should not be classified as an expenditure. This object code is used with all functions.

a. 931 Residual Equity Transfers - Nonrecurring or non-routine transfers of equity between funds: for example, the transfer of residual balances of discontinued funds to the General Fund or Debt Service Fund.

b. 932 Operating Transfers Out - Transactions that withdraw money from one fund to another without recourse: for example, legally authorized transfers from a fund receiving revenue to the fund through which the resources are to be expended.

c. 933 Indirect Costs - The transfer of funds from Federally assisted programs to the General Fund for those indirect costs which are not readily identifiable but are, nevertheless, incurred for the joint benefit of those activities and other activities and programs of the organization.

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### §903 Function Codes

A. The function describes the activity for which a service or material object is acquired. The functions of an LEA are classified into five broad areas: instruction, support services, operation of non-instructional services, facilities acquisition and construction, and other outlays. Functions are further broken down into subfunctions and areas of responsibility.

B. 1000 Instruction - Activities dealing directly with the interaction between teachers and students. Teaching may be provided for students in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. It may also be provided through some other approved medium such as television, radio, telephone and correspondence. Included here are the activities of aides or classroom assistants of any type (clerks, graders, teaching machines, etc.) that assist in the instructional process.

1. 1100 Regular Programs - Elementary and Secondary - Activities that provide students in grades K-12 with learning experiences to prepare them for activities as citizens, family members, and non-vocational workers. These programs contrast with those designed to improve or overcome physical, mental, social and/or emotional handicaps.

a. 1105 Kindergarten - The activities associated with children for the year immediately preceding the first grade.

b. 1110 Elementary - The activities associated with children from first grade through and including the eighth grade.

c. 1130 Secondary - The activities associated with children from the ninth grade through and including the twelfth grade.

2. 1200 Special Education Programs - Activities primarily for students having special needs. These programs include services for the gifted and talented, mentally retarded, or physically handicapped.

a. 1210 Special Education - Activities for students identified as being mentally or physically disabled.

b. 1220 Gifted and Talented - Activities for students identified as being mentally gifted or talented.

3. 1300 Vocational Programs - Activities that provide students with the opportunity to develop the knowledge, skills and attitudes needed for employment in an occupational area.

a. 1310 Agriculture - Activities that enable students to acquire the background, knowledge, and skills necessary to enter a wide range of agriculturally related activities.

b. 1340 Home Economics - Activities that enable students to acquire knowledge and develop understanding, attitudes, and skills relevant to personal, home, and family life, and to home economics occupations.

c. 1350 Industrial Arts - Activities that develop a students' understanding about all aspects of industry and technology. These aspects include experimenting, designing, constructing, and evaluating; using tools, machines, materials; and using processes that may help individuals make informed and meaningful occupational choices, or that may prepare them to enter advanced trade and industrial or technical educational programs.

d. 1360 Business - Activities that prepare, upgrade, or retrain students for selected office occupations.

e. 1390 Other Vocational Programs - Other activities that provide students with the opportunity to develop the knowledge, skills, and attitudes needed for employment in an occupational area.

4. 1400 Other Instructional Programs - Elementary and secondary: activities that provide students in grades K - 12 with learning experiences not included in 1100 Regular Programs.

a. 1410 Co-Curricular Activities - School sponsored activities, under the guidance and supervision of the LEA staff, designed to provide students such experiences as motivation, enjoyment, and improvement of skills. Co-curricular activities normally supplement the regular instructional program and include such activities as band, chorus, choir, speech and debate. Also included are student-financed and managed activities, such as chess club, senior prom, Future Farmers of America, senior class, etc.



b. 1420 Athletics – School sponsored activities, under the guidance and supervision of LEA staff, that provide opportunities for students to pursue various aspects of physical education. Athletics normally involve competition between schools and frequently involve offsetting gate receipts or fees.

c. 1440 Driver Education Programs – Activities that provide students with instruction in learning to drive an automobile.

d. 1490 Other – Activities that provide students with learning experiences not included above.

5. 1500 Special Programs - Activities primarily for students having special needs. These programs include pre-kindergarten, culturally different students with learning disabilities, bilingual students, and special programs for other types of students.

a. 1510 Improving America's Schools Act (IASA) – Activities for students whose background is so different from that of most other students that they need additional opportunities beyond those provided in the regular educational program.

b. 1520 Bilingual Education Programs (Title VII) – Activities for students from homes in which the English language is not the primary language spoken.

c. 1530 Pre-Kindergarten Programs – Activities associated with children of any age span below kindergarten.

6. 1600 Adult/Continuing Education Programs - Activities that develop knowledge and skills to meet immediate and long range educational objectives of adults who have completed or interrupted their formal schooling to accept adult roles and responsibilities. Programs include activities for developing the fundamental tools of learning; for preparing students for a post secondary career; for preparing students for post secondary education programs; for upgrading occupational competence; for preparing students for a new or different career; for developing skills and appreciation for special interests; or for enriching the aesthetic qualities of life.

7. 1700 Community/Junior College Education Programs – Deleted

C. 2000 Support Services - Support services provide administrative, technical (such as guidance and health), and logistical support to facilitate and enhance instruction. These services exist as adjuncts for fulfilling the objectives of instruction, community services and enterprise programs, rather than as entities within themselves.

1. 2100 Pupil Support Services - Activities designed to assess and improve the well-being of students and to supplement the teaching process.

a. 2110 Child Welfare and Attendance Services – Activities that are designed to improve student attendance at school and that attempt to prevent or solve student problems involving the home, the school, and the community. Registration activities for Adult Education Programs are included here.

i. 2111 Supervision of Attendance and Social Work Services – Activities associated with directing, managing and supervising attendance and social work.

ii. 2112 Attendance Services – Activities such as promptly identifying nonattendance patterns, promoting improved attitudes toward attendance, analyzing causes of

nonattendance, acting early on nonattendance problems, and enforcing compulsory attendance laws.

iii. 2113 Social Work Services – Activities such as investigating and diagnosing student problems arising out of the home, school, or community; providing casework and group work services for the child, parent, or both; interpreting the problems of students for other staff members; and promoting modification of the circumstances surrounding the individual student and are related to his or her problem.

iv. 2114 Student Accounting Services – Activities of acquiring and maintaining records of school attendance, location of home, family characteristics, and census data. Portions of these records become a part of each student's cumulative record, which is sorted and stored for teacher and guidance information. Pertinent statistical reports are prepared under this function as well.

v. 2119 Other Attendance and Social Work Services - Attendance and social work services other than those described above.

b. 2120 Guidance Services – Activities involving counseling with students and parents; consulting with other staff members on learning problems; evaluating the abilities of students; assisting students as they make their own educational and career plans and choices; assisting students in personal and social development; providing referral assistance; and working with other staff members in planning and conducting guidance programs for students.

i. 2121 Supervision of Guidance Services – Activities associated with directing, managing and supervising guidance services.

ii. 2122 Counseling Services – Activities concerned with the relationship among one or more counselors and one or more students as counselees, among students and students, and among counselors and other staff members. These activities are designed to help the student understand his or her educational, personal, and occupational strengths and limitations; relate his or her abilities, emotions, and aptitudes to educational and career opportunities; utilize his or her abilities in formulating realistic plans; and achieve satisfying personal and social development.

iii. 2123 Appraisal Services – Activities that assess student characteristics – which are used in administration, instruction, and guidance – and that assist the student in assessing his or her purposes and progress in career and personality development.

iv. 2124 Information Services – Activities for disseminating educational, occupational, and personal social information to help acquaint students with the curriculum and with educational and vocational opportunities and requirements. Such information might be provided directly to students through activities such as group or individual guidance, or it might be provided indirectly to students, through staff members or parents.

v. 2125 Record Maintenance Services – Activities for compiling, maintaining, and interpreting cumulative records of individual students, including systematic consideration of such factors as home and family background, physical and medical status, standardized test results, personal and social development, and school performance.

vi. 2126 Placement Services – Activities that help place students in appropriate situations while they are in school. These placements could be educational situations, part-time employment while they are in school, and appropriate educational and occupational situations after they leave school. These activities also help ease the student's transition from one educational experience to another. The transition may require, for example, admissions counseling, referral services, assistance with records, and follow-up communications with employers.

vii. 2129 Other Guidance services – Guidance services that cannot be classified above.

c. 2130 Health Services - Physical and mental health services that are not direct instruction. Included are activities that provide students with appropriate medical, dental, and nursing services.

i. 2131 Supervision of Health Services – Activities associated with directing and managing health services.

ii. 2132 Medical Services – Activities concerned with the physical and mental health of students, such as health appraisal, including screening for vision, communicable diseases, and hearing deficiencies; screening for psychiatric services, periodic health examinations; emergency injury and illness care; and communications with parents and medical officials.

iii. 2133 Dental Services – Activities associated with dental screening, dental care, and orthodontic activities.

iv. 2134 Nursing Services – Activities associated with nursing, such as health inspection, treatment of minor injuries, and referrals for other health services.

v. 2139 Other Health Services – Health services not classified above.

d. 2140 Psychological Services - Activities concerned with administering psychological tests and interpreting the results; gathering and interpreting information about student behavior; working with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests and behavioral evaluation; and planning and managing a program of psychological services, including psychological counseling for students, staff and parents.

i. 2141 Supervision of Psychological Services – Directing, managing and supervising the activities associated with psychological services.

ii. 2142 Psychological Testing Services – Activities concerned with administering psychological tests, standardized tests, and inventory assessments. These tests measure ability, aptitude, achievement, interests and personality. Activities also include the interpretation of these tests for students, school personnel, and parents.

iii. 2143 Psychological Counseling Services – Activities that take place between a school psychologist or other qualified person as counselor and one or more students as counselees in which the students are helped to perceive, clarify, and solve problems of adjustment and interpersonal relationships.

iv. 2144 Psychotherapy Services – Activities that provide a therapeutic relationship between a qualified mental health professional and one or more students, in which the students are helped to perceive, clarify, and solve emotional problems.

v. 2149 Other Psychological Services – Other activities associated with psychological services not classified above.

e. 2150 Speech Pathology and Audiology Services - Activities that identify, assess, and treat children with speech, hearing, and language impairments.

i. 2151 Supervision of Speech Pathology and Audiology Services – Activities associated with directing, managing and supervising Speech Pathology and Audiology services.

ii. 2152 Speech Pathology Services – Activities that identify children with speech and language disorders; diagnose and appraise specific speech and language disorders; refer problems for medical or other professional attention necessary to treat speech and language disorders; provide required speech treatment services; and counsel and guide children, parents, and teachers, as appropriate.

iii. 2153 Audiology services – activities that identify children with hearing loss; determine the range, nature, and degree of hearing function; refer problems for medical or other professional attention appropriate to treat impaired hearing; treat language impairment; involve auditory training, speech reading (lip-reading), and speech conversation; create and administer programs of hearing conservation; and counsel children, parents, and teachers as appropriate.

iv. 2159 Other Speech Pathology and Audiology Services – Other activities associated with Speech Pathology and Audiology services not classified above.

f. 2190 Other Pupil Support Services - Other support services to students not classified elsewhere in 2100 Pupil Support.

2. 2200 Instructional Staff Services - Activities associated with assisting the instructional staff with the content and process of providing learning experiences for students.

a. 2210 Supervision of Improvement of Instructional Services – Activities associated with directing, managing and supervising the improvement of instructional services.

i. 2211 Regular Education – Elementary/Secondary Programs – Activities associated with directing, managing and supervising the improvement of instruction in grades K–12.

ii. 2212 Special Education Programs – Activities associated with directing, managing and supervising the improvement of instruction for students identified as being mentally or physically disabled.

iii. 2213 Gifted and Talented – Activities associated with directing, managing and supervising the improvement of instruction for students identified as being mentally gifted or talented.

iv. 2214 Other Special Programs – Activities associated with directing, managing and supervising the improvement of instruction for students in special programs: IASA Programs, Bilingual Programs, and Headstart/Early Childhood Programs.

v. 2215 Vocational – Activities associated with directing, managing and supervising the improvement of instruction for students in the vocational programs.

vi. 2216 Adult/Continuing Education – Activities associated with directing, managing and supervising the

improvement of instruction for students in the adult or continuing education programs.

vii. 2219 Other Education Programs – Activities associated with directing, managing and supervising the improvement of instruction for students in other programs not identified above.

b. 2220 Instruction and Curriculum Development Services – Activities that aid teachers in developing the curriculum, preparing and utilizing special curriculum materials, and understanding and appreciating the various techniques that stimulate and motivate students.

c. 2230 Instructional Staff Training Services – Activities that contribute to the professional or occupational growth and competence of members of the instructional staff during the time of their service to the school system or school. Among these activities are workshops, demonstrations, school visits, courses or college credit, sabbatical leaves, and travel leaves.

d. 2240 Other Improvement of Instruction Services – Activities for improving instruction other than those classified above.

e. 2250 Educational Media Services – Activities concerned with the use of all teaching and learning resources, including hardware and content materials. Educational media are defined as any devices, content materials, methods, or experiences used for teaching and learning purposes. These materials include printed and non-printed sensory materials.

i. 2251 Supervision of Educational Media Services – Activities concerned with directing, managing and supervising educational media services.

ii. 2252 School Library Services – Activities such as selecting, acquiring, preparing, cataloging, and circulating books and other printed materials; planning the use of the library by students, teachers and other members of the instructional staff; and guiding individuals in their use of library books and materials, whether maintained separately or as a part of an instructional materials center. Textbooks will not be charged to this function but rather to 1000 Instruction.

iii. 2253 Audiovisual Services – Activities such as selecting, preparing, caring for, and making available to members of the instructional staff the equipment, films, filmstrips, transparencies, tapes, TV programs, and similar materials, whether maintained separately or as part of an instructional materials center. Included are activities in the audiovisual center, TV studio, and related work–study areas, and the services provided by audiovisual personnel.

iv. 2254 Educational Television Services – Activities concerned with planning, programming, writing, and presenting educational programs or segments of programs by closed circuit or broadcast television.

v. 2255 Computer–Assisted Instruction Services – Activities concerned with planning, programming, writing, and presenting educational projects that have been especially programmed for a computer to be used as the principal medium of instruction.

vi. 2259 Other Educational Media Services – Educational media services other than those classified above.

f. 2290 Other Instructional Staff Services – Services supporting the instructional staff not properly classified elsewhere in 2200 Instructional Staff Services.

3. 2300 General Administration – Activities concerned with establishing and administering policy for operating the LEA. These activities do not include the chief business official here, but include in 2500 Business Services.

a. 2310 Board of Education Services – Activities of the elected body that has been created according to State law and vested with responsibilities for educational activities in a given administrative unit.

i. 2311 Supervision of Board of Education Services – Activities concerned with directing and managing the general operation of the Board of Education. These include the activities of the members of the Board of Education, but does not include any special activities defined in the other areas of responsibility described below. They also include any activities of the district performed in support of the school district meeting. Legal activities in interpretation of the laws and statutes and general liability situations are charged here, as are the activities of external auditors.

ii. 2312 Board Secretary/Clerk Services – Activities required to perform the duties of the secretary or clerk of the Board of Education.

iii. 2313 Board Treasurer Services – Activities required to perform the duties of treasurer of the Board of Education.

iv. 2314 Election Services – Services rendered in connection with any school system election, including elections of officers and bond elections.

v. 2315 Tax Assessment and Collection Services – Services rendered in connection with tax assessment and collection.

vi. 2316 Staff Relations and Negotiations Services – Activities concerned with staff relations systemwide and the responsibilities for contractual negotiations with both instructional and non-instructional personnel.

vii. 2319 Other Board of Education Services – Board of Education services that cannot be classified under the preceding areas of responsibility.

b. 2320 Executive Administrative Services – Activities associated with the overall general administration of or executive responsibility for the entire LEA.

i. 2321 Office of Superintendent Services – Activities performed by the superintendent in generally directing and managing all affairs of the LEA. These activities include all personnel and materials in the office of the chief executive officer.

ii. 2322 Community Relations Services – Activities and programs developed and operated systemwide for improving school/community relations.

iii. 2323 State and Federal Relations Services – Activities associated with developing and maintaining good relationships with State and Federal officials. The activities associated with grant procurement are included.

iv. 2324 Office of Assistant Superintendent Services – Activities performed by deputy, associate, and assistant superintendents in assisting the superintendent in generally directing and managing all affairs of the LEA.

Activities of the offices of the deputy superintendent should be charged here, unless the activities can be placed properly into a service area. In this case, they would be charged to service area direction in that service area.

v. 2329 Other Executive Administration Services – Other general administrative services that cannot be recorded under the preceding functions.

4. 2400 School Administration – Activities concerned with the overall administrative responsibility for a school.

a. 2410 Office of the Principal Services – Activities concerned with directing and managing the operation of a particular school. They include the activities performed by the principal while he/she supervises all operations of the school, evaluates the staff members of the school, assigns duties to staff members, supervises and maintains the records of the school, and coordinates school instructional activities with those of the LEA. These activities also include the work of the clerical staff in support of the teaching and administrative duties.

b. 2420 Office of the Assistant Principal Services – Activities performed by assistant principals and other assistants concerned with directing and managing the operation of a particular school under the supervision of the principal.

c. 2490 Other School Administration Services – Other school administrative services that cannot be recorded under the previous functions including graduation expenses and full-time department chairpersons.

5. 2500 Business Services – Activities concerned with paying, transporting, exchanging, and maintaining goods and services for the LEA. Included are the fiscal and internal services necessary for operating the LEA.

a. 2510 Fiscal Services – Activities concerned with the fiscal operations of the LEA. This function includes budgeting, receiving and disbursing, financial and property accounting, payroll, inventory control, internal auditing and managing funds.

i. 2511 Supervising Fiscal Services – Activities concerned with directing, managing and supervising the fiscal services area. They include the activities of the assistant superintendent, director, or school business official who directs and manages fiscal activities.

ii. 2512 Budgeting Services – Activities concerned with supervising budget planning, formulation, control and analysis.

iii. 2513 Receiving and Disbursing Funds Services – Activities concerned with taking in money and paying it out. They include the current audit of receipts; interest on short term loans; the pre-audit of requisitions or purchase orders to determine whether the amounts are within the budgetary allowances and to determine that such disbursements are lawful expenditures of the school or an LEA; and the management of school funds.

iv. 2514 Payroll Services – Activities concerned with periodically paying individuals entitled to remuneration for services rendered. Payments are also made for such payroll-associated costs as federal income tax withholding, retirement, and social security.

v. 2515 Financial Accounting Services – Activities concerned with maintaining records of the financial operations and transactions of the school system.

They include such activities as accounting and interpreting financial transactions and account records.

vi. 2516 Internal Auditing Services – Activities concerned with verifying the account records, which includes evaluating the adequacy of the internal control system, verifying and safeguarding assets, reviewing the reliability of the accounting and reporting systems, and ascertaining compliance with established policies and procedures.

vii. 2517 Property Accounting Services – Activities concerned with preparing and maintaining current inventory records of land, building, and equipment. These records are used in equipment control and facilities planning.

viii. 2519 Other Fiscal Services – Fiscal services that cannot be classified under the preceding functions.

b. 2520 Purchasing Services – Activities concerned with purchasing supplies, furniture, equipment, and materials used in schools or school system operations.

c. 2530 Warehousing and Distributing Services – Activities concerned with receiving, storing, and distributing supplies, furniture, equipment, materials, and mail. They include collecting and transporting cash from school facilities to the central administration office or bank for control, deposit, or both.

i. 2535 Warehouse Inventory Adjustment – Activities involving adjustments to inventories reported on a consumption basis, in object code 610 Materials and Supplies, 630 Food, or 730 Equipment, or for lost or stolen equipment.

d. 2540 Printing, Publishing, and Duplicating Services – Activities concerned with printing and publishing administrative publications such as annual reports, school directories, and manuals. Activities here also include centralized services for duplicating school materials and instruments such as school bulletins, newsletters, and notices.

e. 2590 Other Business Services – Other business support services not classified elsewhere in 2500 Business Services.

6. 2600 Operations and Maintenance of Plant Services – Activities concerned with keeping the physical plant open, comfortable, and safe for use, and keeping the grounds, buildings, and equipment in effective working condition and state of repair. These activities include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools.

a. 2610 Supervision of Operation and Maintenance of Plant Services – Activities involved in directing, managing and supervising the operation and maintenance of school plant facilities.

b. 2620 Operating Buildings Services – Activities concerned with keeping the physical plant clean and ready for daily use. They include operating the heating, lighting, and ventilating systems, and repairing and replacing facilities and equipment. Also included are the costs of building rental and property insurance.

c. 2630 Care and Upkeep of Grounds Services – Activities involved in maintaining and improving the land, (but not the buildings). These include snow removal, landscaping, grounds maintenance and the like.

d. 2640 Care and Upkeep of Equipment Services – Activities involved in maintaining equipment owned or used

by the LEA. They include such activities as servicing and repairing furniture, machines, and movable equipment.

e. 2650 Vehicle Operation and Maintenance Services (other than student transportation vehicles) – Activities involved in maintaining general purpose vehicles such as trucks, tractors, graders, and staff vehicles. These activities are considered regular or preventive maintenance: i.e., repairing vehicles; replacing vehicle parts; and cleaning, painting, greasing, fueling, and inspecting vehicles for safety.

f. 2660 Security Services – Activities concerned with maintaining order and safety in school buildings, on the grounds, and in the vicinity of schools at all times. Included are police activities for school functions, traffic control on grounds and in the vicinity of schools, building alarm systems, and hall monitoring services.

g. 2690 Other Operation and Maintenance of Plant Services – Operations and maintenance of plant services that cannot be classified elsewhere in 2600 Operation and Maintenance of Plant Services.

7. 2700 Student Transportation Services – Activities concerned with conveying students to and from school, as provided by State and Federal law. This function includes trips between home and school, and trips to school activities.

a. 2710 Supervision of Student Transportation Services – Activities pertaining to directing and managing student transportation services.

b. 2720 Regular Transportation – Activities involving the transportation of regular education students.

i. 2721 Vehicle Operation Services – Activities involved in operating vehicles for student transportation, from the time the vehicles leave the point of storage until they return to the point of storage. These activities include driving buses or other student transportation vehicles.

ii. 2722 Monitoring Services – Activities concerned with supervising students in the process of being transported between home and school, and between school and school activities. Such supervision can occur while students are in transit, while they are being loaded and unloaded, and while the supervisor is directing traffic at the loading stations.

iii. 2723 Vehicle Servicing and Maintenance Services – Activities involved in maintaining student transportation vehicles. It includes repairing vehicle parts; replacing vehicle parts; and cleaning, painting, fueling, and inspecting vehicles for safety.

c. 2730 Special Education Transportation – Activities involving the transportation of mentally and physically disabled students.

i. 2731 Vehicle Operation Services – Activities involved in operating vehicles for student transportation, from the time the vehicles leave the point of storage until they return to the point of storage. These activities include driving buses or other student transportation vehicles.

ii. 2732 Monitoring Services – Activities concerned with supervising students in the process of being transported between home and school, and between school and school activities. Such supervision can occur while students are in transit, which they are being loaded and unloaded, and while the supervisor is directing traffic at the loading stations.

iii. 2733 Vehicle Servicing and Maintenance Services – Activities involved in maintaining student transportation vehicles. These include repairing vehicle parts; replacing vehicle parts; and cleaning, painting, fueling, and inspecting vehicles for safety.

d. 2790 Other Student Transportation Services – Student transportation services that cannot be classified elsewhere in 2700 Student Transportation Services.

8. 2800 Central Services – Activities, other than general administration, that support each of the other instructional and supporting services programs. These activities include planning, research, development, evaluation, information, staff, and data processing services.

a. 2810 Planning, Research, Development, and Evaluation Services – Activities associated with conducting and managing programs of planning, research development, and evaluation for a school system on a system-wide basis.

i. Planning Services – activities concerned with selecting or identifying the overall, long-range goals and priorities of the organization or program. They also involve formulating various courses of action needed to achieve these goals. This process is done by identifying needs and relative costs and benefits of each course of action.

ii. Research Services – activities concerned with the systematic study and investigation of the various aspects of education, undertaken to establish facts and principles.

iii. Development Services – activities in the deliberate evolving process of improving educational programs - such as using the products of research.

iv. Evaluation Services – activities concerned with ascertaining or judging the value or amount of an action or an outcome. This evaluation is conducted through the careful appraisal of previously specified data in light of the particular situation and the goals previously established.

b. 2820 Information Services – Activities concerned with writing, editing, and other preparing necessary to disseminate educational and administrative information to students, staff, managers, and the general public through direct mailing, the various news media, or personal contact.

i. 2821 Supervision of Information Services – Activities concerned with directing, managing and supervising information services.

ii. 2822 Internal Information Services – Activities concerned with writing, editing, and providing administrative information to students and staff.

iii. 2823 Public Information Services – Activities concerned with writing, editing, and other preparing necessary to disseminate educational and administrative information to the public through various news media or personal contact.

iv. 2824 Management Information Services – Activities concerned with writing, editing, and other preparing necessary to disseminate to management (1) the information needed about the operation of the LEA and (2) information about the community, state, and nation to make logical decisions.

v. 2829 Other Information Services – Activities concerned with 2820 Information Services not classified above.

c. 2830 Personnel Services – Activities concerned with maintaining an efficient staff for the school system.

These activities include such activities as recruiting and placement, staff transfers, inservice training, health service, and staff accounting.

i. 2831 Supervision of Personnel Services – Activities concerned with directing, managing and supervising staff services.

ii. 2832 Recruitment and Placement Services – Activities concerned with employing and assigning personnel for the LEA.

iii. 2833 Staff Accounting Services – Services rendered in connection with the systematic recording and summarizing of information relating to staff members employed by the LEA.

iv. 2834 Inservice Training Services (for non-instructional staff) – Activities developed by the LEA for training of non-instructional personnel in all classifications.

v. 2835 Health Services – Activities concerned with medical, dental, and nursing services provided for school district employees. Included are physical examinations, referrals, and emergency care.

vi. 2839 Other Staff Services – Staff services that cannot be classified under the preceding functions.

d. 2840 Data Processing Services – Activities concerned with preparing data for storage, storing data, and retrieving data for reproduction as information for management and reporting purposes.

i. 2841 Supervising Data Processing Services – Activities concerned with directing, managing and supervising data processing services.

ii. 2842 Systems Analysis Services – Activities concerned with searching for and evaluating alternatives for achieving defined objectives, based on judgment and, wherever possible, on quantitative methods. Where applicable, these activities pertain to the development of data processing procedures or application to electronic data processing equipment.

iii. 2843 Programming Services – Activities concerned with the preparation of a logical sequence of operations to be performed, either manually or electronically, in solving problems or processing data. These activities also involve preparing coded instructions and data for such sequences.

iv. 2844 Operations Services – Activities concerned with scheduling, maintaining, and producing data. These activities include operating business machines, data preparation devices, and data processing machines.

v. 2849 Other Data Processing – Activities concerned with 2840 Data Processing not described above.

9. 2900 Other Support Services – All other support services not classified elsewhere in 2000 Support Services.

D. 3000 Operation of Non-instructional Services – Activities concerned with providing non-instructional services to students, staff or the community.

1. 3100 Food Services Operations – Activities concerned with providing food to students and staff in a school or LEA to meet the nutritional needs of children as defined in U. S. D. A. Child nutrition regulations for participating schools or LEA. Activities may include the operation of breakfast, lunch, snacks, catering, and nutrition education.

2. 3200 Enterprise Operations – Activities that are financed and operated in a manner similar to private

business enterprises in which the stated intent is that the costs are financed or recovered primarily through user charges. Food services should not be charged here, but rather to function 3100 Food Services Operations. One example could be the LEA bookstore.

3. 3300 Community Services Operations – Activities concerned with providing community services to students, staff or other community participants. Examples of this function would be the operation of a community swimming pool, a recreation program for the elderly, a child care center for working mothers, etc.

E. 4000 Facilities Acquisition and Construction Services – Activities concerned with acquiring land and buildings; remodeling buildings; constructing buildings and additions to buildings; initially installing or extending service systems and other built-in equipment; and improving sites.

1. 4100 Site Acquisition Services – Activities concerned with initially acquiring and improving new sites.

2. 4200 Site Improvement Services – Activities concerned with improving sites and with maintaining existing site improvements.

3. 4300 Architecture and Engineering Services – The activities of architects and engineers related to acquiring and improving sites and improving buildings. Charges are made to this function for only those preliminary activities that may or may not result in additions to the LEA's property. Otherwise, charge these services to 4100 Site Acquisition Services, 4200 Site Improvement Services, 4500 Building Acquisition and Construction Services, or 4600 Building Improvement Services, as appropriate.

4. 4400 Educational Specifications Development Services – Activities concerned with preparing and interpreting descriptions of specific space requirements for the various learning experiences of students to be accommodated in a building. These specifications are interpreted to the architects and engineers in the early stages of blueprint development.

5. 4500 Building Acquisition and Construction Services – Activities concerned with buying or constructing buildings.

6. 4600 Building Improvements Services – Activities concerned with building additions and with installing or extending service systems and other built-in equipment.

7. 4700 Sixteenth Section Land Improvements – Activities concerned with making improvements to sixteenth section lands. These activities may include re-seeding the land with trees, adding soil, cutting drainage canals, etc.

8. 4900 Other Facilities Acquisition and Construction Services – Facilities acquisition and construction activities that cannot be classified above.

F. 5000 Other Use of Funds – A number of outlays of governmental funds are not properly classified as expenditures, but still require budgetary or accounting control. These include debt service payments (principal and interest) and certain transfers of monies from one fund to another. These accounts are not used with the proprietary funds.

1. 5100 Debt Service – Servicing the debt of the LEA, including payments of both principal and interest. Normally, only long-term debt service (obligations exceeding one year) is recorded here. Interest on current loans (repayable within one year of receiving the obligation) is charged to

function 2513 Receiving and Disbursing Funds Services. The receipt and payment of principal on those loans is handled as an adjustment to the balance sheet account 451 Loans Payable.

2. 5200 Fund Transfers – Transactions that withdraw money from one fund and place it in another without recourse. Fund transfers budgeted to another functional activity, such as food service or transportation, are coded to the appropriate function and the object code 930 Interfund Transactions. Unless State law prohibits, revenues should be allocated to the appropriate funds when received, rather than accepted in the general fund and later transferred.

a. Interfund Loans are not recorded here, but are handled through the balance sheet accounts 131 Interfund Loans Receivable and 401 Interfund Loans Payable in the funds affected.

b. When expenditures are made for replacement of damaged or stolen equipment, the expenditure should appear as 700 Property under the appropriate function.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

#### **§1101. Assets and Other Debit Codes**

A. Assets and other debits include what is owned and what is not owned (as of the date of the balance sheet) but is expected to become owned fully at some future date. Also included are other budgeting and offsetting accounts which normally have debit balances.

B. Current assets: cash or anything that can be readily converted into cash.

1. 101 Cash in Bank – All funds on deposit with a bank or savings and loan institution in interest bearing and non-interest-bearing checking accounts.

2. 102 Cash on Hand – Currency, coins, checks, postal and express money orders, and bankers' drafts on hand.

3. 103 Petty Cash – A sum of money set aside for the purpose of paying small obligations for which the issuance of a formal voucher and check would be too expensive and time-consuming.

4. 104 Change Cash – A sum of money set aside to provide change.

5. 105 Cash with Fiscal Agents – Deposits with fiscal agents, such as commercial banks, for paying matured bonds and interest.

6. 111 Investments – Securities and real estate held for producing income in the form of interest, dividends, rentals or lease payments. The account does not include fixed assets used in LEA operations. Separate accounts for each category of investments may be maintained.

7. 112 Unamortized Premiums on Investments – The excess of the amount paid for securities over the face value which has not yet been amortized. Use of this account is restricted to long-term investments.

8. 113 Unamortized Discounts on Investments (credit) – The excess of the face value of securities over the amount paid for them which has not yet been written off. Use of this account is normally restricted to long-term investments.

9. 114 Interest Receivable on Investments – The amount of interest receivable on investments, excluding interest purchased. Interest purchased should be shown in a separate account.

10. 115 Accrued Interest on Investments Purchased – Interest accrued on investments between the last interest payment date and date of purchase. The account is carried as an asset until the first interest payment date after the date of purchase. Upon receipt and deposit of the cash, an entry is made debiting the account "Cash in Bank", and crediting the "Accrued Interest on Investments Purchased" account for the amount of interest purchased and an interest earning revenue account (1510) for the balance.

11. 121 Taxes Receivable – The uncollected portion of taxes that a LEA or governmental unit has levied and that has become due, including any interest or penalties that may have accrued. Separate accounts may be maintained on the basis of tax roll, current and delinquent taxes, or both.

12. 122 Estimated Uncollectable Taxes (credit) – That portion of taxes receivable it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the taxes receivable account in order to arrive at the net taxes receivable. Separate accounts may be maintained on the basis of tax roll year, delinquent taxes, or both.

13. 131 Interfund Loans Receivable – An asset account used to record a loan by one fund to another fund in the same governmental unit. It is recommended that separate accounts be maintained for each Interfund receivable loan.

14. 132 Interfund Accounts Receivable – An asset account used to indicate amounts owed to a particular fund by another fund in the same LEA for goods sold or services rendered. It is recommended that separate accounts be maintained for each Interfund receivable.

15. 141 Intergovernmental Accounts Receivable – Amounts due to the reporting governmental unit from another governmental unit. These amounts may represent grants-in-aid, shared taxes, taxes collected for the reporting by the reporting unit, loans, and charges for services rendered by the reporting unit for another government. It is recommended that separate accounts be maintained for each interagency receivable.

16. 151 Loans Receivable – Amounts that have been loaned to persons or organizations, including notes taken as security for such loans, where permitted by statutory authority.

17. 152 Estimated Uncollectible Loans (credit) – The portion of loans receivable that it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the other loans receivable account.

18. 153 Other Accounts Receivable – Amounts owed on open account from private persons, firms, or corporations for goods and services furnished by an LEA (but not including amounts due from other funds or from other governmental units).

19. 154 Estimated Uncollectible Accounts Receivable (credit) – A provision for that portion of accounts receivable that it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the other accounts receivable account.

20. 161 Bond Proceeds Receivable – An account used to designate the amount receivable upon the sale of bonds.

21. 171 Inventories for Consumption – The cost of supplies and equipment on hand not yet distributed to requisitioning units.

22. 172 Inventories for Resale – The value of goods held by an LEA for resale rather than for use in its own operations.

23. 181 Prepaid Expenses – Expenses paid for benefits not yet received. Prepaid expenses differ from deferred charges in that they are spread over a shorter period of time than deferred charges and are regularly recurring costs of operation. Examples of prepaid expenses are prepaid rent, prepaid interest, and unexpired insurance premiums. An example of a deferred charge is unamortized discounts on bonds sold.

24. 191 Deposits – Funds deposited by the LEA as prerequisite to receiving services, goods, or both.

25. 199 Other Current Assets – Current assets not provided for elsewhere.

27. 211 Sites – A fixed asset account that reflects the acquisition value of land owned by an LEA. If land is purchased, this account includes the purchase price and costs – such as legal fees, filling and excavation costs, and other associated improvement costs incurred to put the land in condition for its intended use. If land is acquired by gift, the account reflects its appraised value at the time of acquisition.

27. 221 Site Improvements – A fixed asset account that reflects the acquisition value of permanent improvements, other than buildings, which add value to land. Examples of such improvements are fences, retaining walls, sidewalks, pavements, gutters, tunnels and bridges. If the improvements are purchased or constructed, this account contains the purchase or contract price. If improvements are obtained by gift, it reflects the appraised value at the time of acquisition.

28. 222 Accumulated Depreciation on Site Improvements – Accumulated amounts for depreciation of land improvements. The recording of depreciation is optional in the general fixed assets account group.

29. 231 Building and Building Improvements – A fixed asset account that reflects the acquisition value of permanent structures used to house persons and property owned by the LEA. If buildings are purchased or constructed, this account includes not only the purchase or contract price of all permanent buildings, but also the fixtures attached to and forming a permanent part of such buildings. This account includes all building improvements. If buildings are acquired by gift, the account reflects their appraised value at the time of acquisition.

30. 232 Accumulated Depreciation on Buildings and Building Improvements – Accumulated amounts for depreciation of buildings and building improvements. The recording of depreciation is optional in the general fixed assets account group.

31. 241 Machinery and Equipment – Tangible property of a more or less permanent nature, other than land, buildings, or improvements thereto, which is useful in carrying on operations. Examples are machinery, tools, trucks, cars, buses, furniture and furnishings. Appendix A provides criteria to distinguish whether a purchase is a supply or a piece of machinery or equipment.

32. 242 Accumulated Depreciation on Machinery and Equipment – Accumulated amounts for depreciation of machinery and equipment. The recording of depreciation is optional in the general fixed assets account group and required in the proprietary funds.

33. 251 Construction in Progress – The cost of construction work undertaken, but not yet completed.

34. 303 Amount Available in Debt Service Funds – An account in the general long-term debt account group. It designates the amount of fund balance available in the debt service fund for the retirement of long-term debt.

35. 304 Amount to be Provided for Retirement of General Long-Term Debt – An account in the general long-term debt account group. It designates the amount to be provided from taxes or other revenue to retire long-term debt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

### **§1103 Liabilities and Other Credit Codes**

A. Liabilities are LEA debts plus items that are not debts, but which may become debts at some future time.

B. Current liabilities - Those debts the LEA expects to pay within a short period of time, usually within a year or less.

1. 401 Interfund Loans Payable – A liability account used to record a debt owed by one fund to another fund in the same governmental unit. It is recommended that separate accounts be maintained for each Interfund loan.

2. 402 Interfund Accounts Payable – A liability account used to indicate amounts owed by a particular fund to another fund in the same LEA for goods and services rendered. It is recommended that separate accounts be maintained for each Interfund payable.

3. 411 Intergovernmental Accounts Payable – Amounts owed by the reporting LEA to another governmental unit. It is recommended that separate accounts be maintained for each interagency payable.

4. 421 Accounts Payable – Liabilities on open account owing to private persons, firms, or corporations for goods and services received by an LEA (but not including amounts due to other funds of the same LEA or to other governmental units).

5. 422 Judgments Payable – Amounts due to be paid by an LEA as the result of court decisions, including condemnation awards paid for private property taken for public use.

6. 423 Warrants Payable – Amounts due to designated payees in the form of a written order drawn by the LEA directing the LEA treasurer to pay a specific amount.

7. 431 Contracts Payable – Amounts due on contracts for assets, goods and services received by an LEA.

8. 432 Construction Contracts Payable – Retained Percentage – Liabilities on account of construction contracts for that portion of the work that has been completed but on which part of the liability has not been paid—pending final inspection, or the lapse of a specified time period, or both. The unpaid amount is usually a stated percentage of the contract price.

9. 433 Construction Contracts Payable – Amounts due by an LEA on contracts for constructing buildings and other structures, and other improvements.

10. 441 Matured Bonds Payable – Bonds that have reached or passed their maturity date, but which remain unpaid.



11. 442 Bonds Payable – Bonds that have not reached or passed their maturity date, but which are due within one year or less.

12. 443 Unamortized Premiums on Bonds Sold – An account that represents that portion of the excess of bond proceeds over par value and that remains to be amortized over the remaining life of such bonds.

13. 451 Loans Payable – Short-term obligations representing amounts borrowed for short periods of time, usually evidenced by notes payable or warrants payable.

14. 455 Interest Payable – Interest due within one year.

15. 461 Accrued Salaries and Benefits – Salary and fringe benefit costs incurred during the current accounting period; these costs are not payable until a subsequent accounting period.

16. 471 Payroll Deductions and Withholdings – Amounts deducted from employee salaries for withholding taxes and other purposes. District-paid benefit amounts payable also are included. A separate liability account may be used for each type of benefit.

17. 481 Deferred Revenues – A liability account that represents revenues collected before they become due.

18. 491 Deposits Payable – Liability for deposits received as a prerequisite to providing or receiving services, goods, or both.

19. 492 Due to Fiscal Agent – Amounts due to fiscal agents, such as commercial banks, for serving an LEA's matured indebtedness.

20. 499 Other Current Liabilities – Other current liabilities not provided for elsewhere.

C. Long-Term Liabilities – Debt with a maturity of more than one year after the date of issuance.

1. 511 Bonds Payable – Bonds that have not reached or passed their maturity date and that are not due within one year.

2. 521 Loans Payable – An unconditional written promise signed by the maker to pay a certain sum of money one year or more after the issuance date.

3. 531 Lease Obligations – Amounts remaining to be paid on lease purchase agreements.

4. 541 Unfunded Pension Liabilities – The amount of the actuarial deficiency on a locally-operated pension plan to be contributed by the LEA on behalf of present employees.

5. 590 Other Long-Term Liabilities – Other long-term liabilities not provided for elsewhere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

### **§1105. Fund Equity Codes**

A. These accounts identify the excess of a fund over its liabilities. Portions of that balance may be reserved for future use.

1. 711 Investment in General Fixed Assets – An account in the General Fixed Assets Account Group. It represents the LEA's equity in general fixed assets. The balance of this account is normally subdivided according to the source of funds that financed the asset acquisition, such as General Fund revenues, bond issues, and contributions.

2. 730 Reserved-Retained Earnings – The accumulated earnings of the proprietary funds that have been retained in the fund and that are reserved for a specific

purpose. One example would be funds reserved for the future purchase of equipment.

3. 740 Unreserved-Retained Earnings – The accumulated earnings of the proprietary funds that have been retained in the fund and that are not reserved for any specific purpose.

4. 751 Reserve for Inventories – A reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are tied up in inventories and are, therefore, not available for appropriation. The use of this account is optional.

5. 752 Reserve for Prepaid Expenses – A reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are tied up on prepaid expenses and are, therefore, not available for appropriation. The use of this account is optional.

6. 753 Reserve for Encumbrances – A reserve representing that portion of a fund balance segregated to provide for unliquidated encumbrances. Separate accounts may be maintained for current and prior-year encumbrances.

7. 760 Reserved-Fund Balance – A reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are tied up and are, therefore, not available for appropriation. It is recommended that a separate reserve be established for each special purpose. One example of a special purpose would be restricted Federal programs.

8. 770 Unreserved – Undesignated Fund Balance – The excess of the assets of a fund over its liabilities and reserves.

9. 780 Unreserved – Designated Fund Balance – That portion of the fund balance that indicates tentative plans for financial resource utilization in a future period, such as for general contingencies or for equipment replacement. Such designations reflect tentative managerial plans and should clearly be distinguished from reserves.

B. An LEA can take two basic approaches to distinguish between supplies and equipment in the decision making situations: (1) adopt a predetermined list of items, classifying each entry as either a supply or an item of equipment, or (2) adopt a set of criteria to be used in making its own Classification of supply and equipment items.

1. List of items – At one time, the Federal Accounting Handbook contained lists of both supplies and equipment. Such lists can never be comprehensive or exhaustive, and quickly become outdated.

2. Set of Criteria – An item must be considered a supply if it does not meet all the stated equipment criteria listed below.

a. It can last more than one year.

b. It is nonexpendable; that is, if damaged or worn out, it can be repaired without being replaced.

c. It does not lose its identity through fabrication or incorporation into a different or more complex unit.

d. It exceeds \$300.00 per unit cost in value.

3. Effective with FY 2000-2001, the value of the per unit cost will increase from \$300 to \$1,000. In subsequent years, the per unit cost will increase \$1,000 each year until it is the equivalent of that allowed in EDGAR. Future revisions of this handbook will reflect this change.

4. Note: food and computer software must always be considered supplies.

Interested persons may submit written comments until 4:30 p.m. January 10, 1999 to Ms. Nina Ford, Board Recorder, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064, or fax to 225-342-5843.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 1929—Louisiana Accounting  
and Uniform Governmental Handbook**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be no cost of implementation of this change to either the local school districts or the Department.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no net effect on revenue collections of any 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 affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Marlyn J. Langley  
Deputy Superintendent  
9911#079

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT  
Department of Civil Service  
Civil Service Commission**

**Over-Time Hours and Layoff**

The State Civil Service Commission will hold a public hearing on December 8, 1999, to consider the amendment of certain Civil Service Rules concerning overtime - 6.20; 6.21; 6.22; 6.23(a); 6.25(d); 6.26; and 6.27(a). Also to be considered are proposed layoff-related changes ,amendments to Rules 5.6(c); 6.15(f); adoption of Rule 17.14.2; amendments to Rules 17.16; 17.17; 17.17.1; 17.22; 17.23.1; and 17.25.2. Additionally, Rule 20.1 is proposed for adoption. The hearing will begin at 9:00 a.m. and will be held in the Commission Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana. Consideration will be given to the following.

**Amend Rule 6.20**

**6.20 Options for Full-Time Exempt And Nonexempt Employees for Overtime Hours Actually Worked in Excess of Forty Hours per Week**

An appointing authority shall select and use one of the applicable options listed below for those overtime hours actually worked in excess of 40 hours per week. ONLY OPTIONS 1 OR 2 under Rule 6.20 (a) shall be used for overtime work by employees in NONEXEMPT STATUS

REGARDLESS of GS level. Refer to Rule 6.24 for fire, law enforcement, and hospital employees.

PAY RANGE	OPTIONS
(a) GS-12 and below in General Schedule and MS-56 and below in Medical Schedule.	(1) Cash payment at time and one-half rate. (2) Compensatory leave earned at time and one-half rate. (3) Cash payment at regular rate. (4) Compensatory leave earned hour for hour.
(b) Regardless Of GS-Level, This Portion Of The Rule Does Not Apply If Employee Is FLSA Nonexempt	

GS-13 and above in General Schedule and MS-57 and above in Medical Schedule hour for hour.	(1) Cash payment at regular rate (2) Compensatory leave earned. (3) No overtime compensation.
--	---

**Explanation**

This amendment would change the GS-level from 11 to 12, in the General Schedule, for payment of overtime hours actually worked in excess of 40 hours per week in 6.20(a) to make the GS-level ranges consistent with other rule amendments (6.25(c) and (d), and 11.29(e)2). In amendment 6.20(b), the GS-level is changed from 12 to 13, in the General Schedule, for payment of overtime hours actually worked in excess of 40 hours per week to make the GS-level ranges consistent with other rule amendments. Certain words have been typed in capital letters in this rule to stress that regardless of pay level, if an employee is nonexempt under the federal Fair Labor Standards Act (FLSA), he/she must be compensated for overtime work in accordance with that Act.

**Amend Rule 6.21**

**6.21 Overtime Options for Full-Time Employees for Overtime Hours Not Actually Worked in Excess of Forty Hours per Week Due to Holidays Observed or Leave Taken**

An appointing authority shall select and use one of the applicable options listed below for those overtime hours not actually worked in excess of forty hours per week due to holidays observed or leave taken.

PAY RANGE	OPTIONS
(a) GS-12 and below in General Schedule and MS-56 and below in Medical Schedule hour for hour.	(1) Cash payment at regular rate. (2) Compensatory leave earned hour for hour.
(b) GS-13 and above in General Schedule and MS-57 and above in Medical Schedule.	(1) Cash payment at regular rate. (2) Compensatory leave earned hour for hour. (3) No overtime compensation.

**Explanation**

This amendment is for the same purpose as stated in the explanation for Rule 6.20.

**Amend Rule 6.22**

**6.22 Overtime Options for Part-Time Employees**

The appointing authority shall select and use one of the applicable options for:

- (a) ...
- (b) A regular part-time employee who works in excess of forty hours per week and is nonexempt, or GS-12 and below in the General Schedule or MS-56 and below in the Medical Schedule:

Options:

Compensation in accordance with Rule 6.20.

(c) A regular part-time employee who works in excess of forty hours per week and is exempt and is GS-13 and above in the General Schedule or MS-57 and above in the Medical Schedule:

Options:

- 1. Cash payment at regular rate.
- 2. Compensatory leave earned hour for hour.

(d) An intermittent employee:

Options:

1. Overtime for work in excess of forty hours per week by nonexempt employees, or those GS-12 and below in the General Schedule or MS-56 and below in the Medical Schedule, shall be compensated in accordance with Rule 6.20.

2. Overtime for work in excess of forty hours by exempt employees or those GS-13 and above in the General Schedule or MS-57 and above in the Medical Schedule, shall be compensated by cash payment at regular rate.

3. ...

**Explanation**

This amendment is for the same purpose as stated in the explanation for Rule 6.20.

**Amend Rule 6.23(a)**

**6.23 Overtime Options for Work on Holidays**

(a) An appointing authority shall select and use, for BOTH EXEMPT AND NONEXEMPT EMPLOYEES, one of the applicable options for overtime work not in excess of forty hours per week performed on holidays.

**PAY RANGE**

1. GS-12 and below in General Schedule and MS-56 and below in Medical Schedule

2. GS-13 and above in General Schedule and MS-57 and above in Medical Schedule

**OPTIONS**

(a) Cash payment at time and one-half rate.  
(b) Cash payment at regular rate.  
(c) Compensatory time earned hour for hour.

(a) Cash payment at regular rate  
(b) Compensatory time earned hour for hour.  
(c) No overtime compensation.

(b) and (c) ...

**Explanation**

This amendment is for the same purpose as stated in the explanation for rule 6.20.

**Amend Rule 6.25(d)**

**6.25 Accumulation Of Compensatory Leave**

(a) - (c) ...

(d) Payment shall be paid within 60 days after January 1 of each year for compensatory leave that exceeds 360 hours and was earned hour for hour at GS-12 and below in the General Schedule and MS-56 and below in the Medical Schedule. Such payment shall be at the employee's regular rate, excluding premium pay, shift differential and non-cash compensation. If an exception has been approved in accordance with subsection (c) of this rule, any compensatory leave over that approved maximum number of hours shall be paid within 60 days after January 1 of each year.

(e) ...

**Explanation**

This amendment makes payment of compensatory leave that exceeds 360 hours consistent with other payment dates for paying compensatory leave.

**Amend Rule 6.26**

**6.26 Civil Service Review of Nonexempt Positions GS-13 or above in the General Schedule and MS-57 or above in the Medical Schedule**

(a) It is the responsibility of the appointing authority to determine whether or not an employee occupying a position GS-13 or above in the general schedule or MS-57 and above in the medical schedule should be considered nonexempt under the fair labor standards act on an ongoing basis. Such employees must be paid in accordance with that federal law, and this should be done without requesting prior approval from the Director of Civil Service. However, within a reasonable period of time following such determination by the appointing authority, he shall provide the Director with a listing of the job titles and applicable number of positions GS-13 and above in the General Schedule or MS-57 and above in the Medical Schedule that are considered to be nonexempt.

(b) ...

**Explanation**

This amendment is for the same purpose as stated in the explanation for Rule 6.20.

**Amend Rule 6.27(a)**

**6.27 Exceptions to the Overtime Rules**

Exceptions to the Rules on overtime compensation are as follows:

(a) for positions in classes GS-13 or above in the General Schedule or MS-57 and above in the Medical Schedule, which are exempt under the Fair Labor Standards Act, the Commission may grant authority to use any of the options for overtime compensation when:

1. an appointing authority petitions the Commission for this authority. The Commission may, with such restrictions as it deems appropriate, permit the use of time and one-half compensation to employees who occupy positions in jobs GS-13 and above in the General Schedule and MS-57 and above in the Medical Schedule;

2. the Civil Service Director petitions the Commission for authority to utilize time and one-half compensation to specific jobs GS-13 and above in the General Schedule or MS-57 and above in the Medical Schedule. Such authorizations, when approved, shall be published as part of the Personnel Manual.

(b) - (e) ...

**Explanation**

This amendment is for the same purpose as stated in the explanation for Rule 6.20.

We are organizing the following proposals related to layoff into two groups, for ease of understanding. The first group is comprised of the newly proposed Rule 17.14.2 and related rule amendments to it in Rules 5.6(c) and 6.15(f). The second group contains only proposed changes to Chapter 17.

First set of layoff-related rule proposals.

**Amend Rule 5.6**

**5.6 Status of Incumbent when Position is Reallocated**

(a) - (b) ...

(c) If the duties which caused the reallocation are returned or removed, the incumbent shall be entitled to remain in the position. Subject to the provisions of Rule 17.14.2, if the position is declared a new position, the former position shall be deemed abolished and the incumbent shall be removed therefrom by layoff.

**Explanation**

If a reallocation is requested and Civil Service determines that a new lower position should be established and the old higher position be abolished, the layoff that would result must follow the newly proposed simplified layoff procedure provided in Rule 17.14.2.

**Amend Rule 6.15**

**6.15 Red Circle Rates**

(a) - (e) ...

When an employee is subject to a demotion in a layoff, including a layoff as provided for in Rule 17.14.2, and the layoff was not absolutely required because of budgetary cuts, except that the pay upon demotion in such a layoff for an employee whose current pay rate within the base supplement exceeds the range or the range plus authorized base supplement for the position to which he is to demote shall be set no higher than his current salary and at the higher of the following:

1 and 2 ...

(g) and (h) ...

**Explanation**

This portion of the red circle rule references proposed Rule 17.14.2, which will provide for a simplified layoff process to occur when Civil Service has determined that a new lower position exists and the old incumbered position must be abolished.

**Adopt Rule 17.14.2**

**17.14.2 Notification and Authority for a Layoff when a New Lower Position has been Established by Civil Service for an Incumbered Position**

When the Department of Civil Service has determined that a new lower position exists and the old incumbered position must be abolished, the appointing authority shall notify the Director of the incumbent's demotion in lieu of layoff to the new lower position by submission of the applicable Standard Form 1. The incumbent's pay upon demotion in lieu of layoff shall not be reduced, in accordance with the provisions of Rule 17.19(a). The appointing authority shall advise a permanent employee(s) that he can apply for placement on the Department Preferred Reemployment List in accordance with Rule 17.24.

**Explanation**

This rule will provide for a simplified layoff process to occur when Civil Service has determined that a new lower position exists and the old incumbered position must be abolished. This situation frequently occurs when a request for reallocation or update of a position, made either by the agency or the employee, results in Civil Service's declaring the establishment of a new lower position rather than a reallocation downward. This rule will allow for the red circle

rate rule to apply to the salary of the employee affected by the demotion in lieu of layoff and for application by the employee for placement on the Department Preferred Reemployment List.

Second set of layoff rule proposals:

**Amend Rule 17.16**

**17.16 Order of Displacement**

The job offer shall be determined by Rule 17.17, and once determined, displacement within that job offer shall be to a position in the affected class(es), career field(s), organizational unit(s) and commuting area(s) in this order:

Group A a non-permanent classified employee

Group B a permanent part-time employee

Group C a permanent full-time employee

(a) Within Groups B and C layoff actions shall be according to length of state service; subject to Rule 17.16.1, those with the least service shall be displaced/laid off first.

(b) ...

**Explanation**

The rule has been reworded, including the use of Groups A through C, to clarify the order of displacement once a job offer has been determined according to Rule 17.17 and to aid in the discussion of displacement offers which occurs during the layoff process.

**Amend Rule 17.17**

**17.17 Displacement Rights of Permanent Employees**

(a) A permanent employee affected by a layoff shall have the right to displace, subject to subsection (c) of this rule, permanent employees with less state service. Regardless of length of state service, a permanent employee, who meets the job qualifications, shall always have the right to displace a non-permanent classified employee or a permanent part-time employee in that order.

(b) - (c)5 ...

6. Employees on non-permanent classified appointments (restricted appointments, job appointments, provisional appointments, and probational appointments) have no displacement rights; therefore, no offers must be made to them if they are displaced from their positions, or if their positions are abolished.

7. The first offer shall allow the employee to make a choice of one of the following, if available:

(a) a position in the same job title and parish; or

(b) a position in an equivalent job in the same career field and same parish.

8. The second offer shall allow the employee to make a choice of one of the following, if available:

(a) - (c) ...

(d) A position in the highest job outside the career field (as long as it is higher than the offer in the career field) occupied by a probationary or provisional employee and in the same parish and organizational unit.

9. Qualifications for and Responding to Job Offers:

(a) If meeting the job qualifications requires a grade from Civil Service, the person must have had the grade established at Civil Service at least two weeks prior to the receipt of the layoff plan by the Director or he is not eligible for that position. The grade need not be active; it may be expired. However, it must have the same series number as the test currently in use and must be verifiable - either in the automated applicant record at Civil Service or by the applicant producing the original grade notice.

(b) Subject to Rule 17.17.1(e), an employee's declining an offer after officially accepting a job offer in a layoff will not require the agency to rework any job offer(s) already made. The agency may rework the layoff job offer(s) or may offer the next position available at that point in the layoff.

**Explanation**

Revision of this rule aims to meet several needs:

1. reduce the number of job offers by combining the former first and second offers into the first offer, by eliminating former Rule 17.17(c)9(b) and then combining former third and fourth offers into the second offer. Thus, now two job offers exist instead of four, a fact which should reduce the debate over what is a "best offer;"

2. Reduce the number of job offers outside the career field, except in the same parish in the commuting area. This was done by eliminating former Rule 17.17.(c)9(b).

3. If an employee must have a grade in order to accept a job offer in a layoff, the rule specifies the time frame during which that grade must have already been established prior to the layoff. Also, it eliminates suspension of layoff offers while waiting for an employee affected by the layoff to take a Civil Service test or establish a grade.

4. The rule specifies that an agency is not required to rework the layoff offers if an employee declines an official job offer after initially accepting it. However, if it so desires, an agency in such a situation may rework the layoff.

**Adopt Rule 17.17.1**

**Rule 17.17.1 Responsibilities of Employees Affected In a Layoff**

The following actions shall be the responsibility of an employee in the organizational unit affected by a layoff.

(a) The employee shall read or otherwise make himself aware of agency-distributed information concerning the layoff.

(b) The employee shall supply all information required by the agency to determine his adjusted state service date in the format required by the agency and by deadlines set by the agency, in compliance with Civil Service Rules.

(c) If an employee is absent from work, he shall leave with the personnel specified by his agency, correct and current written information as required by the agency on how he may be reached during all times when his agency will be making job offers during the layoff.

(d) The employee shall comply with the deadline for responding to a job offer in a layoff in a manner which has been determined by his agency in accordance with Civil Service Rules. Failure to do so in the proper manner and by the deadline shall be considered a declination of the job offer by the employee.

(e) Once an employee gives his acceptance or declination of a job offer in a layoff, his decision is final.

**Explanation**

To aid employers and to clarify that employees do have responsibilities to perform during a layoff, this new rule is being proposed. In particular, the duties of an employee who is absent from work during job offers in a layoff are specified as well the deadline for responding to job offers.

**Amend Rule 17.22**

**17.22 Ties**

Rule 17.16(b) shall be used, if applicable, in breaking ties among employees who have the same length of state service. In case of a tie, if Rule 17.16(b) is not applicable, an employee whose most recent Performance Planning and Review rating or re-rating was "Poor" shall be laid off/displaced. Below are listed other methods by which ties may be broken if neither of the first two methods are applicable. The method or methods of breaking ties must be applied uniformly. Subject to Rule 17.21, the remaining methods of breaking ties may be:

- (a) by length of service in the position; or
- (b) by length of service in the department; or
- (c) based on the most recent overall official ratings or re-ratings above "Poor" earned by the tied employees.
- (d) Repealed.

**Explanation**

This rule seeks to further incorporate the use of efficiency ratings of employees in the process of tie breaking. The increased use of the ratings will be phased in over a two-year period. These proposed revisions and new rules constitute Phase I which will become effective if the Commission approves these rules in the winter of 1999; Phase II will become effective one year later in the winter of 2000 and Phase III will become effective in the winter of 2001, two years from the 1999 approval date for Phase I.

**Amend Rule 17.23.1(b)**

**Rule 17.23.1 Layoff-Related Appointments**

- (a) ...
- (b) No appointment shall be made in the affected organizational unit or department to the job(s) affected by the layoff or to equivalent or lower levels of positions in the applicable career fields and in the applicable commuting area(s) beginning on the date the Director approves the formal layoff plan for the proposed layoff and ending 30 days after the layoff report as stipulated by Rule 17.23 is received at the Department of State Civil Service or upon establishment of the department preferred reemployment list, whichever comes first. Exceptions to this provision include reinstatement, internal demotion, or restoration of a former employee entitled to the position who has returned from military service in accordance with Rule 8.19. Exceptions also include restricted appointment, detail to special duty, job appointment and use of temporary staffing service employees, none of which shall exceed three (3) months beyond the effective date of layoff.

**Explanation**

This rule changes the statewide freeze on certain types of employment during the layoff process to be a freeze on such appointments only in the applicable commuting areas in the affected organizational unit or department.

**Amend Rule 17.24**

**17.24 Department Preferred Reemployment Lists**

- (a) - (g) ...
- (h) The maximum period during which a former or otherwise affected employee's name may remain on a department preferred reemployment list(s) shall be two years

from the effective date of the applicable layoff(s). The Director shall remove the employee's name from all such lists at the expiration of that period if it has not been previously removed.

#### **Explanation**

This rule reduces the duration of time that an affected employee's name can remain on such list from three years to two years.

#### **Amend Rule 17.25.1**

##### **17.25.1 Open Preferred Reemployment Lists**

The Director shall establish open preferred reemployment lists, consisting of former permanent employees separated from state service as the result of a layoff action, and shall determine the eligibility criteria for such lists. Except as provided in Rule 17.16.1(f), eligibility for the open preferred reemployment list does not extend to an employee whose most recent official overall Performance Planning and Review rating or re-rating was "Poor" when he was laid off. The maximum period during which a former or otherwise affected employee's name may remain on an open preferred re-employment list(s) shall be one year from the effective date of the applicable layoff(s). The Director shall remove the employee's name from such lists at the expiration of the period if it has not been previously removed.

#### **Explanation**

This rule change does not permit an employee whose most recent official overall Performance Planning and Review rating or re-rating was "Poor" when he was laid off to apply for or be placed on the Open Preferred Reemployment List. It also codifies that the Director shall remove an employee's name from such lists at the expiration of the one-year period if it has not been previously removed.

#### **Amend Rule 17.25.2**

##### **17.25.2 Noncompetitive Reemployment from an Open Preferred Reemployment List**

When an appointing authority determines that it is necessary to fill a position through probational appointment, noncompetitive reemployment of a former employee other than one laid off from and having department preferred reemployment rights in that department, or job appointment in excess of three months, before hiring a person from outside state classified service, he first must hire available eligibles on the open preferred reemployment list. An agency is not required to select a person from an open preferred reemployment list if the agency can show that the person has exhausted his eligibility for unemployment compensation. Exceptions to this Rule can be made with the approval of the Director.

#### **Explanation**

This rule allows further flexibility to agencies when filling positions when an Open Preferred Reemployment List exists by not requiring consideration of employees on the list for whom eligibility for unemployment compensation has been exhausted. The agency is required to be able to show proof of this fact when not considering a name for this reason.

#### **Adopt Rule 20.1**

##### **Chapter 20. Pilot of Transaction Approval Changes**

The Director may authorize an appointing authority to effect certain personnel actions without obtaining approval of the Director. Every personnel action must comply with

Civil Service Rules and the uniform classification and pay plan adopted by the Commission. No employee shall gain any entitlement or property right to any position or pay found to have been awarded to him or her in violation of these Rules.

#### **Explanation**

The Department of Civil Service is pursuing plans to alter the methods used to review personnel actions for compliance with the Civil Service Rules. An essential part of these alterations will be to allow agencies to enter personnel actions with immediate effect. Civil Service review of actions will occur after their effective date. The Rule proposed will allow the Director to authorize appointing authorities to enact certain personnel actions without the Director's prior review of each action. The requirement for personnel actions to be taken in accordance with the Civil Service Rules remains unchanged.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Allen H. Reynolds  
Director

9911#059

### **NOTICE OF INTENT**

#### **Department of Economic Development Board of Architectural Examiners**

Architects Selection Board (LAC 46:I.Chapter 19)

Under the authority of La. R.S. 37:144(C) and in accordance with the provisions of La. R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment of LAC 46:I Chapter 19 pertaining to the election of members of the Louisiana Architects Selection Board. The Board proposes to repeal the rules contained in existing LAC 46:I Chapter 19 and adopt the rules contained herein. The rules contained herein, if adopted, will also replace the emergency rules adopted at a special meeting of the Board of Architectural Examiners held on July 27, 1999, which rules were published in the August 20, 1999 issue of the *Louisiana Register*. The proposed rules have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part I. Architects**

#### **Chapter 19. Architects Selection Board**

##### **§1901. Districts**

A. Only one architect may be elected from each of the districts set forth in La. R.S. 38:2311(A)(1)(a).

B. If the parishes comprising any district or if the number of districts are changed by the legislature, these rules shall be revised to be consistent with the latest

expression of the legislature without the need of formal action by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26:

### **§1903. Nominations**

For terms commencing September 15 of each year, the board will accept nominations for election to the Architects Selection Board on the following basis: any resident architect holding a current Louisiana license desiring nomination must deliver a written nomination on a current form and/or reproduction obtained from board office to the board office in Baton Rouge, signed by not less than ten (10) resident architects other than the nominee holding a current Louisiana license, between May 1 and May 31 at 5:00 p.m. preceding the election. The nomination shall state the parish in which the nominee resides and the district for which election is sought. Nominations received on or before such deadline shall be considered timely delivered. Confirmation of receipt is the sole responsibility of the nominee.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26:

### **§1905. Waiver of Election**

If only one resident architect is nominated from any district, no election shall be held in that district, and that nominee shall be deemed elected without any further activity of the board.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26:

### **§1907. Ballots**

If an election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately three weeks after the closing date for nominations. On the ballot shall be printed the names of the candidates for each district in alphabetical order, the date for the return of the ballots, and any other information the board believes helpful in the election process. Attachments to the ballot may include biographical information of the candidates and instructions.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26:

### **§1909. Voting**

A. Only resident architects in good standing in Louisiana shall have the right to vote. A resident architect may vote in one or more but less than all district elections, and no ballot shall be voided for that reason.

B. Ballots shall be returned in the official return envelopes provided by the board to the board office in Baton Rouge. No marks identifying the voting architect shall be placed on the ballot itself. The voting architect shall sign and provide his or her license number in the upper left-hand corner of the return envelope.

C. The ballot shall not be valid unless:

1. the signature and license number appear on the return envelope; and

2. the return envelope is received by the board office on or before the deadline. No write-in candidates will be allowed, and any ballot containing a vote for a write-in candidate will be voided. Any ballot containing more than one vote for candidates in one district will be entirely voided. Ballots returned in an envelope other than the official return envelope provided by the board shall not be voided for that reason, provided;

3. the signature and license number of the voting architect appear on the return envelope; and

4. the return envelope is received by the board office on or before the deadline.

D. The deadline for returning the ballots will be fixed by the president and will be at least fourteen (14) calendar days after the ballots are mailed to all resident architects. Ballots received after the deadline shall not be counted.

E. Upon receipt, each return envelope shall be stamped by the board office showing the date received.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26:

### **§1911. Plurality**

The candidate elected in each district will be based on plurality.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26:

### **§1913. Tabulation**

A. On a date fixed by the president, within fourteen (14) calendar days of the deadline for receipt of ballots, tellers appointed by the president, including at least one board member, shall meet at the board office for the purpose of tabulating the ballots. Following a determination that each return envelope contains the required signature and license number, and was timely received, the tellers shall open and count all ballots properly prepared. The executive director will notify the candidates of the results.

B. Alternatively, when in the discretion of the president the manual tabulating of the ballots by tellers in accordance with the preceding paragraph would be burdensome, or for some other reason should be performed by an outside person, the president may refer the entire tabulating of the ballots, or any part thereof, to an accounting firm, data processing company, or other such qualified person in addition to one board member. The outside person may use such clerical or other assistance, including whatever assistance from the board staff, as he or she deems necessary. The outside person shall (1) determine that each return envelope contains the required signature and license number, and was timely received; (2) count all ballots properly prepared; and (3) certify the number of votes received by each candidate to the board president and the executive director, who shall notify the candidates of the results.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26:

### §1915. Tie

A. In the event no candidate receives a plurality, a run-off election between those candidates who received the highest number of votes will be held.

B. If a run-off election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately two weeks after it has been determined that such an election is necessary.

C. The official ballot shall contain the information set forth in §1907, except only the names and information for those candidates in the run-off election shall be included.

D. The rules for voting, for determining the person elected, and for tabulating votes set forth in §1909, §1911, and §1913 shall be applicable.

E. In the event no candidate in the run-off election receives a plurality, the procedure set forth herein shall be repeated until one candidate receives a plurality.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26:

### §1917. Vacancies

Any vacancy occurring with respect to any person elected shall be filled in the following manner: The executive director shall give notice of the vacancy to any person who has previously requested such notice in writing, and the executive director shall also publish in the official journal of the state an advertisement which will appear for a period of not less than ten (10) calendar days. The advertisement in the official journal of the state need not appear more than three times during the ten (10) day period. The executive director may publish other such advertisements in his or her discretion. The advertisements shall identify the district in which a vacancy has occurred and state that any resident architect in that district holding a current Louisiana license desiring nomination must furnish a nomination signed by not less than ten (10) resident architects holding a current Louisiana license by certified mail to the board office, that a sample of the nomination may be obtained upon request from the board office, the deadline for filing the nomination, and any other information the board may consider necessary. The deadline for filing a nomination to fill a vacancy shall be at least ten (10) calendar days subsequent to the expiration of the last advertisement appearing in the official journal of the state. The board shall appoint one of the nominees to fill the vacancy, which appointee shall serve the unexpired term.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, LR 4:336 (September 1978), amended LR 10:741 (October 1984), LR 26:

### §1919. Election Contest

A. The executive director will notify the candidates of the results of the election by U. S. Mail. The ten (10) calendar days for contesting an election shall commence three work days (excluding Saturdays, Sundays, and legal holidays) after the results of the election are deposited in the mail by the executive director.

B. Any candidate desiring to contest an election shall, within the time period mentioned in the preceding paragraph, file a written petition addressed to the board stating the basis of the complaint. Upon receipt of such petition, the president shall call a special meeting of the board to hear the complaint, which meeting shall be held within ten (10) calendar days from the date the petition is received and at a time and place to be designated by the president. At the hearing the board shall consider any evidence offered in support of the complaint. The decision of the board shall be announced within seventy-two (72) hours after the close of the hearing.

C. All ballots shall be preserved until the expiration of the time allowed for the filing and hearing of a contest. After such period has elapsed, if the election be not contested, the executive director shall destroy the ballots. If the election is contested, the executive director shall maintain the ballots until the contest is concluded, after which the executive director shall destroy the ballots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 26:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Architects Selection Board

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It has been estimated that the proposed rule will result in an implementation savings to the state of approximately \$1,628 per year. This is a result of conducting one election per year rather than two. The only costs associated with these rules are those costs directly associated with the publication of these rules. There is no anticipated impact on local governmental units.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefits to directly affected persons or non-governmental groups. The proposed rules merely change the procedures for the election of architects to the LASB.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule. The proposed rules merely change the procedures for the election of architects to the LASB.

Mary "Teeny" Simmons  
Executive Director  
9911#020

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office



**NOTICE OF INTENT**

**Department of Economic Development  
Economic Development Corporation**

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

In accordance with La. R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Economic Development Corporation intends to repeal, in its entirety, *Louisiana Administrative Code* Title 13, Economic Development; Part III, Financial Assistance Programs; Chapter 13, Louisiana Small Business Equity Corporation. The Department of Economic Development, Louisiana Economic Development Corporation hereby issues its Family Impact Statement: The repeal of these rules will have no known impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 13**

**ECONOMIC DEVELOPMENT**

**Part III. Financial Assistance Programs**

**Chapter 13. Louisiana Small Business Equity Corporation**

**Repealed.**

Acts 1988, No. 888 §6 repealed La. R.S. 33:9081-9093 relative to the Louisiana Small Business Equity Corporation. The repeal of this legislation renders the Louisiana Department of Economic Development and the Louisiana Economic Development Corporation without the authority to administer the rules pertaining to the Louisiana Small Business Equity Corporation.

The proposed repeal of these rules are scheduled to become effective upon Final promulgation, or as soon thereafter as is practical, upon publication in the *Louisiana Register*. Interested persons may submit written comments until 30 days from the date of this publication, to Dennis Manshack, Executive Director, Louisiana Economic Development Corporation, P.O. Box 44153, Baton Rouge, Louisiana 70804.

Dennis Manshack  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Small Business Equity Corporation**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no significant implementation costs or savings to state or local governmental units anticipated due to the repeal of these rules because the Louisiana Small Business Equity Corporation was repealed in its entirety by Acts 1988, No. 888, §6.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of repealing these rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect on competition and employment is anticipated.

Ron J. Henson  
Undersecretary  
9911#017

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

(Editor's Note: The following notice, which appeared on pages 2044 through 2045 of the October 20, 1999 *Louisiana Register*, is being republished to include new hearing dates.)

Chemical Accident Prevention  
(LAC 33:III.5901) (AQ196)

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.5901 (Log #AQ196).

Act 839 of the 1999 Regular Session enacted R.S. 30:2063(K), which exempts storers of liquefied petroleum gas from regulation by the department for purposes of the chemical accident prevention program. This rule will exempt from the chemical accident prevention program, storers of liquefied petroleum gas whose facilities are permitted through or inspected by the Louisiana Liquefied Petroleum Gas Commission of the Department of Public Safety and Corrections, and storers of liquefied petroleum gas who use such gas as a fuel in an agricultural process. The basis and rationale for this rule are to reflect this exemption made by Act 839 of the 1999 Regular Session of the Louisiana Legislature.

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 59. Chemical Accident Prevention and  
Minimization of Consequences**

**Subchapter A. General Provisions**

**§5901. Incorporation by Reference of Federal  
Regulations**

\* \* \*

[See Prior Text in A-C.5]

6. In 40 CFR 68.130 the list of substances is modified to read, "Storers of liquefied petroleum gas whose facilities are permitted through or inspected by the Louisiana Liquefied Petroleum Gas Commission of the Department of

Public Safety and Corrections or storers of liquefied petroleum gas who use such gas as a fuel in an agricultural process are not subject to the provisions of this Chapter."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on November 29, 1999, 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 AQ196. Such comments must be received no later than December 6, 1999, 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 AQ196.

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: Chemical Accident Prevention**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule provides for deregulation of Liquefied Petroleum Gas (LPG) facilities pursuant to Act 829 of the 1999 Regular Session and will reduce the current workload and costs of the Chemical Accident Prevention Program (CAPP) as they specifically relate to this industry. However, on June 21, 1999, the overall program entered a new work phase when risk management plans for regulated facilities were submitted. Review of plans and follow-up facility audits will dramatically increase the program's workload. Original department estimates indicated that additional staff would be needed if all possible sources including the LPG industry submitted risk management plans. Without the LPG facilities, the staffing and resources

dedicated to this program will more closely match the anticipated workload. Environmental Trust Fund revenue from other sources will be used to supplant the revenue formerly collected from the LPG facilities so as to maintain the overall level of funding for this program.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

As a result of Act 839 of the 1999 Regular Legislative Session, the Louisiana Chemical Accident Prevention Program will lose \$175,500 per year of its revenue.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Liquefied Petroleum Gas permitted facilities that fall under this rule will no longer pay an estimated \$175,500 in annual maintenance fees.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no expected effect on competition and employment.

James H. Brent, Ph.D.  
Assistant Secretary  
9911#028

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**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.317 and 701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(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 finds that it is necessary to amend the EPO Plan Document to provide a schedule of maximum allowable charges for facility fees and to exclude payment of facility fees for services rendered in a physician's office or in a facility not approved by Medicare. The reason for this action is to avoid adverse financial impact on the State Employees Group Benefits Program which would 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 Board hereby gives Notice of Intent to adopt the following Rule, amending the EPO Plan Document.

**Title 32  
EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO)—Plan of Benefits  
Chapter 3. Medical Benefits  
§ 317. Exceptions and Exclusions for all Medical Benefits**

A. - A.38. ...

39. Facility fees for services rendered in a physician's office or in any facility not approved by the federal Health

Care Financing Administration for payment of such fees under Medicare.

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 25:1813 (October 1999), amended LR 26:

**Chapter 7. Schedule of Benefits—EPO**

**§ 701. Comprehensive Medical Benefits**

A. - G. ...

H. Facility Fees, Maximum Allowable Charges. Unless otherwise provided by contract between the Program and the Provider, the Maximum Allowable Charges for facility fees for facilities located within the State of Louisiana shall be.

Facility Type/Charges	Maximum Allowable Charges
Medical	\$1,500/day
Surgical	\$2,000/day
ICU, NICU, CCU	\$3,000/day
Cardiovascular Surgery	\$5,000/day
Rehabilitation	\$750/day
Ambulatory (Outpatient) Surgery	\$3,000 max/occurrence

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 25:1823 (October 1999), amended LR 26:

Interested persons may present their views, in writing, to A. Kip Wall, Interim Chief Executive Officer, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, December 30, 1999.

A. Kip Wall  
Interim Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Exclusive Provider Organization (EPO)—Plan of Benefits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs associated with this rule and projected savings are projected to be minimal. Distribution of this rule change will be through SEGBP's normal correspondence to providers and members. Funds are currently appropriated for this purpose.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state or local governmental units will not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule provides for maximum allowable charges that will be considered for payment by the SEGBP for facility fees for facilities located within the State of Louisiana that are not in the EPO network. Currently, there is only one facility that is non-contracted with SEGBP and the affect of this rule will be minimal.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment will not be affected.

A. Kip Wall  
Interim Chief Executive Officer  
9911#042

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Fee Schedule**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(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, and in order to comply with R.S. 42:851.5 which requires the Board to adopt and promulgate a schedule of maximum fees for medical and surgical services and for professional services provided in hospitals, the Board hereby gives Notice of Intent to adopt the following rule.

The maximum fees for medical and surgical services and for professional services provided in hospitals, when such medical, surgical, or professional services are rendered by providers who have not entered into contracts with the State Employees Group Benefits Program establishing the allowed charges for the services, shall be the 60<sup>th</sup> percentile of MDR's MediCode allowed charge. In the event that an allowed fee for the CPT code is not found in MDR's Medicode schedule, the maximum fee will be 75 percent of the provider's billed charge.

Interested persons may present their views, in writing, to A. Kip Wall, Interim Chief Executive Officer, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, December 30, 1999.

A. Kip Wall  
Interim Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Fee Schedule**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The fee schedule was purchased from Medicode at a cost of \$18,000 by the State Employees Group Benefits Program and an additional \$600 was spent in formatting charges. The fee schedule will allow SEGBP to cap payments to providers in all regions.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state or local governmental units should not be affected by this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The implementation of this fee schedule will reduce the overall rate that the SEGBP reimburses providers. Maximum

reimbursement is set at the 60th percentile of MDR's Medicare allowed charge, and at 75 percent of the provider's billed charges for those CPT codes not found in the schedule. Cost avoidance (approx. \$1.5 mil in FY 99/00, \$1.62 mil in FY 00/01, and \$1.75 mil in FY 01/02) will reduce future payments to providers. No anticipated reduction in benefits and services is expected for the plan members.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment should not be affected.

A. Kip Wall  
Interim CEO  
9911#043

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**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.317 and 701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(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 finds that it is necessary to amend the PPO Plan Document to provide a schedule of maximum allowable charges for facility fees and to exclude payment of facility fees for services rendered in a physician's office or in a facility not approved by Medicare. The reason for this action is to avoid adverse financial impact on the State Employees Group Benefits Program which would 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 Board hereby gives Notice of Intent to adopt the following Rule, amending the PPO Plan Document.

**Title 32  
EMPLOYEE BENEFITS**

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

**Chapter 3. Medical Benefits**

**§ 317. Exceptions and Exclusions for all Medical Benefits**

A. - A.38. ...

39. Facility fees for services rendered in a physician's office or in any facility not approved by the federal Health Care Financing Administration for payment of such fees under Medicare.

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 25:1834 (October 1999), amended LR 26:

**Chapter 7. Schedule of Benefits—PPO  
§ 701. Comprehensive Medical Benefits**

A. - D. ...

E. Facility Fees, Maximum Allowable Charges. Unless otherwise provided by contract between the Program and the Provider, the Maximum Allowable Charges for facility fees for facilities located within the State of Louisiana shall be.

Facility Type/Charges	Maximum Allowable Charges
Medical	\$1,500/day
Surgical	\$2,000/day
ICU, NICU, CCU	\$3,000/day
Cardiovascular Surgery	\$5,000/day
Rehabilitation	\$750/day
Ambulatory (Outpatient) Surger	\$3,000 max/occurrence

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 25:1843 (October 1999), amended LR 26:

Interested persons may present their views, in writing, to A. Kip Wall, Interim Chief Executive Officer, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, December 30, 1999.

A. Kip Wall  
Interim Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Preferred Provider Organization  
(PPO)—Plan of Benefits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs associated with this rule and projected savings are projected to be minimal. Distribution of this rule change will be through SEGBP's normal correspondence to providers and members. Funds are currently appropriated for this purpose.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state or local governmental units will not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule provides for maximum allowable charges that will be considered for payment by the SEGBP for facility fees for facilities located within the State of Louisiana that are not in the PPO network. Currently, there is only one facility that is non-contracted with SEGBP and the affect of this rule will be minimal.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment will not be affected.

A. Kip Wall  
Interim Chief Executive Officer  
9911#041

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

**Office of the Governor  
Division of Administration  
Office of Facility Planning and Control**

Rental and Lease Procedure and Regulations  
(LAC 34:III.Chapter 5)

The Division of Administration, Office of Facility Planning and Control, in accordance with R.S. 49:950 et seq. gives notice that in order to be in conformity with law intends to amend and reenact the following rules governing the Office of Facility Planning and Control's Real Estate Leasing Section.

LAC 34:III.501 is being amended to reflect changes to La. R.S. 39:1641. More specifically, Acts 1988, No. 919, Section 3 repealed subsec. E of Section 1641, thus removing all but one of the exceptions found in LAC 34:III.501. Acts 1997, No. 600, Section 1 repealed subsec. F of Section 1641, thus removing the remaining exception in LAC 34:III.501.

LAC 34:III.503 is being amended to reflect changes by Acts 1995, No. 635 to La. R.S. 39:1643 (A), increasing from 2,500 square feet to 5,000 square feet as the amount of square feet requiring advertising and competitive bidding.

LAC 34:III.505 is being amended to require a bidder "control" the offered properties and parking areas on the date of the bid opening and throughout the term of the lease and option period.

LAC 34:III.506 is being promulgated to merely reflect the law contained in La. R.S. 39:1599.

LAC 34:III.507 has been incorporated into the proposed LAC 34:III.503.

LAC 34:III.508 is being promulgated to merely reflect the law contained in La. R.S. 39:1594.

The proposed LAC 34:III.509 contains only a few minor changes.

LAC 34:III.510 is being promulgated merely to reflect provisions contained in state leases.

LAC 34:III.511 is being re-promulgated.

LAC 34:III.512 is being promulgated to reflect the law as contained in La. R.S. 39:1661.

LAC 34:III.513 is being amended to clarify that the emergency procurement provisions apply only to leases of 5,000 square feet or more because emergency procurements relieve the State of the need to advertise for bids. For smaller leases, the State is not required to advertise for bids.

LAC 34:III.514 is being promulgated to reflect the law as contained in La. R.S. 39:1598.

LAC 34:III.515 is being amended to reflect the changes to La. R.S. 39:1643(A) by Acts 1995, No. 635.

LAC 34:III.516 is being promulgated to reflect current procedures followed by the Real Estate Leasing Section and what is contained in La. R.S. 39:1644(A).

LAC 34:III.517 is being amended to add what is implicit in the law, i.e. that the rules for the Office of State Purchasing apply if they are not in conflict with the rules for Rental and Lease Procedure.

## Title 34

**GOVERNMENT CONTRACTS,  
PROCUREMENT AND PROPERTY CONTROL  
Part III. Facility Planning And Control  
Chapter 5. Rental and Lease Procedure and  
Regulations**

### **§501. Authority, Policy, Purpose, and Application**

A. Authority. Louisiana Revised Statutes provide that all agreements for the lease or rental of space shall be made by the agency whose offices and/or activities are to be housed, but shall be made and entered into only with the approval of the commissioner of administration. (Louisiana Procurement Code, Louisiana Revised Statutes, Chapter 17 of Title 39 R.S. 39:1551 et seq. with particular reference to 39:1641-1644). The commissioner has designated the Office of Facility Planning and Control, Real Estate Leasing Section, to administer this function (1641).

B. Policy. It is the policy of the Division of Administration to acquire the best available rental space for state agencies with the greatest amount of competition among lessors of privately owned facilities (1594(G), 1594(E) as amended, 1643(A) as amended).

C. Purpose. The purpose of these procedures and regulations is to simplify and clarify the procurement practices for renting and leasing of space for state agencies, to provide increased economy and efficiency in procurement activities, to foster more effective competition for bid space, ensure fair and equitable treatment of all persons involved, to enable greater public confidence in the lease procurement process, and to maintain a procurement system of quality and integrity.

D. Application. The definition of "Agency" stated in R.S. 39:2(2) shall be the sole definition of the term "state agency" employed herein in connection with the acquisition of housing space and the fact that an agency is supported by fees or taxes collected by, or dedicated to, the agency or which otherwise receives its operating funds through means other than direct appropriations, shall not be a test as to whether these rules shall be applicable to an agency of the state. [39:1641(C)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:

### **§503. Space Acquisition Method**

#### A. In General

1. The Office of Facility Planning and Control, Real Estate Leasing Section, will retain an original of each lease and will notify a user agency when its lease is about to expire.

2. All standard forms mentioned herein are available on request from the Office of Facility Planning and Control, Real Estate Leasing Section.

3. Every lease for the use of 5,000 square feet or more, with the exception of emergency and sole source procurements as set forth in Rules 513 and 514 and cooperative use agreements between public procurement units, as set forth in R.S. 39:1701 and 1704, must be procured in accordance with R.S. 39:1594.

4. All leases and lease amendments, including amendments both for space of less than 5,000 square feet (which can be negotiated) and for 5,000 square feet or more, which must be bid, must be preceded by a request for approval form RL-2A (negotiable and amended leases) and RL-2B (leases competitively bid) on which the request for space, location and terms of lease are detailed.

5. The Office of Facility Planning and Control, Real Estate Leasing Section, will examine the request in relation to authorized programs, funds, and personnel, and will approve, take under advisement, or disapprove the user agency request, taking into consideration, including but not limited to, the price per square foot of rental space, space allocation, availability of housing in State-owned space, location of the requested space, number of locations considered, timeliness of the availability of the requested space.

#### B. Procedure for Space Less than 5,000 Square Feet

1. An agency seeking to acquire a lease for less than 5,000 square feet or to amend an existing lease which will result in total leased space of less than 5,000 square feet, shall attempt to obtain at least three (3) written proposals. Upon receipt of these proposals, the user agency shall enter into a negotiation process to obtain the best price and terms possible under the circumstances subject to approval by the Division of Administration.

2. Once the agency has completed this negotiation process and has selected a prospective lessor, it submits an RL-2A form to the Office of Facility Planning and Control, Real Estate Leasing Section, for approval of the proposed lease.

3. If an RL-2A request is not approved, the agency is notified in writing of the reasons for disapproval. Facility Planning and Control, Real Estate Leasing Section, may request additional information for further consideration.

4. Upon approval of the RL-2A request, the Real Estate Leasing Section will prepare the lease and extract of lease/amendment. The lease, extract of lease/amendment, and accompanying affidavit are executed, first by the lessor, then by the lessee, who is the user agency or department, and then given final approval by the Division of Administration. The extract of lease and the affidavit become a part of the lease. All leases and amendments shall be executed as four originals and distributed as follows: two (2) leases shall be distributed to the user agency, one (1) distributed to the lessor, and one (1) retained by the Office of Facility Planning and Control, Real Estate Leasing Section. The lessor shall record the extract of lease/amendment, lease or amendment in the public records of the parish in which the leased premises are located, and provide the Real Estate Leasing Section with a certified copy showing such recordation.

#### C. Space 5,000 Square Feet or Greater

##### 1. The Bid Specifications and Solicitation

a. The Office of Facility Planning and Control, Real Estate Leasing Section, receives the RL-2B from the user agency. If an RL-2B is not approved, the agency is notified in writing of the reasons for disapproval. Additional information may be requested for further consideration. If the RL-2B is approved, the Office of Facility Planning and Control, Real Estate Leasing Section, prepares the bid specifications. The bid specifications shall include the bid

proposal form, affidavit attesting to control of the offered property and parking area, evidence of agency, corporate, or partnership authority (if applicable), space specifications and requirements, criteria for evaluation of the bids and a sample lease. Criteria for evaluation of bids shall include location of the proposed space, conditions of the proposed space, suitability of the proposed space for the user agency's needs, and timeliness of availability of the proposed space. (Act 635 of 1995 amending 39:1594(E) and Act 121 of 1997 adding 39:1594(C)(4).

b. The Real Estate Leasing Section forwards the bid specifications to the user agency for final review and comment prior to advertisement.

2. Advertisement and Notice. As required by R.S. 39:1643, leases for the use of 5,000 square feet or more of space are to be awarded pursuant to R.S. 39:1594 (unless exempt under R.S. 39:1593) which requires adequate public notice of the invitation for bids to be given at least 20 days prior to bid opening date. This notice is given by advertising in the official journal of the state and in the official parish journal of the parish where the property is to be leased. The advertisement shall be published twice in the state and parish journals, with one publication on a Saturday, if available. The bid specifications are then made available and distributed to bidders who request a copy. Bidders receiving a copy of the bid specifications, become a "Bidder of Record" for that solicitation.

3. Pre-Bid Conference. A pre-bid conference may be held upon the request of the user agency to answer questions from prospective bidders. The date and time of the pre-bid conference shall be included in the advertisement, which shall state if attendance at the pre-bid conference is a prerequisite to submission of a bid.

##### 4. Addenda to Bid Specifications

a. A potential bidder or the user agency can request changes/alterations to the advertised bid specifications, but only in writing to the Office of Facility Planning and Control, Real Estate Lease Section. The written request is reviewed by the Real Estate Leasing Section and by the user agency. If approved, an addendum to the bid specifications is issued and provided to all "Bidders of Record."

b. Addenda modifying the bid specifications must be issued no later than three (3) working days prior to the advertised time for the opening of bids, excluding Saturdays, Sundays and any other legal holidays. If the necessity arises to issue an addendum modifying the bid specifications within the three-day period prior to the advertised time for the opening of bids, the opening of bids shall be extended exactly 14 days, without the requirement of re-advertising. Addenda shall be sent to all "Bidders of Record."

c. If any changes/alterations to the advertised bid specifications are a substantial deviation from the advertised bid specifications, the solicitation must be re-advertised with a new bid opening date established. The bid opening is rescheduled for at least 20 days after the re-advertisement. Any alterations or changes to advertised geographic boundaries may be grounds for re-advertisement of the solicitation.

##### 5. Bid Opening

a. Bids are opened by the Real Estate Leasing Section at the specified date, time and place. The Real Estate Leasing Section evaluates the bids and arranges them on a

bid tabulation sheet. If deemed necessary by the Real Estate Leasing Section, additional information and documentation evidencing control of the offered property and parking areas can be requested of the apparent low bidder.

b. The Real Estate Leasing Section sends the bid tabulation to the user agency with a request that the user agency verify availability of funds for rental payments to the apparent low bidder and compliance of the property offered by the apparent low bidder with the specified geographic boundaries.

#### 6. Determination of Lowest Bidder

a. Upon receipt from the user agency of verification of availability of rental payments to the apparent low bidder and verification of compliance of the property offered by the apparent low bidder within the specified geographic boundaries, the Real Estate Leasing Section sends written notice to the apparent low bidder requesting schematic floor plans, site plans, and outline specifications of the proposed lease space. The apparent low bidder is allowed 20 days in which to provide the required documents. The user agency shall then review the documents as to adjacencies and layout of the space. If they meet the agency's requirements, the agency shall then submit the schematic plans, site plans, and outline specifications to the Real Estate Leasing Section for review. Once the Real Estate Leasing Section determines they are in compliance with the advertised bid specifications, it will proceed with the issuance of the lease documents.

b. If the schematic plans, site plans, and outline specifications are not approved by the Real Estate Leasing Section, the apparent low bidder is allowed ten (10) days in which to correct any deficiencies or discrepancies between the submitted plans and the advertised bid specifications. Upon receipt of the revised plans, the Real Estate Leasing Section reviews for compliance with the advertised bid specifications. If the documents are then approved by the Real Estate Leasing Section, the lease documents are then issued. Should the schematic plans, site plans, and outline specifications still not comply with the advertised bid specifications, the bid may be rejected for non-compliance with the advertised bid specifications. The next apparent low bidder can then be considered by following the same procedures.

c. Should all bidders be considered non-responsive or not in compliance with the advertised bid specifications, the bid solicitation is canceled. The bid specifications can be reviewed for possible revisions in order that a new solicitation can be issued.

7. Execution of the Lease. The Real Estate Leasing Section will prepare the lease and extract of lease. The lease and extract of lease and accompanying affidavit are executed, first by the lessor, who must return the signed lease and the affidavit within 10 days after receipt. The lease is then executed by the lessee, who is the user agency or department, and then given final approval by the Division of Administration. The affidavit and extract of lease become a part of the lease. All leases shall be executed as four originals and are distributed as follows: two (2) leases to the user agency, one (2) to the lessor, and one (1) retained by the Office of Facility Planning and Control, Real Estate Leasing Section. The lessor shall record an extract of lease or lease in the public records of the parish in which the leased premises

are located and provide the Real Estate Leasing Section with a certified copy showing such recordation.

8. Notice to Other Bidders. When the lease documents are mailed to the lowest, responsible bidder for execution, all other bidders are notified via certified mail of the contract award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:

#### **§505. Space Offered**

A. A bidder may offer space consisting of any of the following: owned or leased space ready for occupancy, owned or leased space to be renovated for occupancy, owned or leased new construction.

B. Space may not be offered for lease in response to a solicitation if the same space has been offered/bid for another solicitation within the last sixty (60) days and has not been withdrawn for that solicitation.

C. A bidder must control the offered property and parking areas as of the date of the bid opening and throughout the term of the lease and option period. He shall submit an affidavit with his bid indicating how the property and parking areas are controlled. The Real Estate Leasing section shall ask the apparent low bidder to provide schematic plans, outline specifications, and site plans and will evaluate those plans and specifications to determine compliance of the offered space with the advertised bid specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:

#### **§506. Rejection of Bids and Cancellation of Invitations for Bids or Requests for Proposals**

A. The Chief Procurement Officer or designee has the right to reject any or all bids, and to cancel an invitation for bids, a Request for Approval Form RL-2, or other solicitation when it has been deemed to be in the best interest of the State of Louisiana. Such determination must be made in writing.

B. If the solicitation is cancelled prior to bid opening, all bidders of record (those bidders who obtain from the Real Estate Leasing Section a copy of the bid specifications) are notified. If the solicitation is cancelled after the bid opening, all bidders are notified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:

#### **§507. Additional Requirements of Lessor Repealed.**

#### **§508. Correction and Withdrawal of Bids**

A. Prior to Bid Opening. Prior to the bid opening, a written request for the withdrawal of a bid will be granted if the request is received prior to the specified time of the bid opening. If a bidder withdraws a bid, all bid documents shall remain the property of the State.

B. After Bid Opening. Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders. Such bid may be corrected or withdrawn after bid opening only with the approval of the Office of Facility Planning and Control, Real Estate Leasing Section. A bidder who wishes to correct or withdraw a bid, must request approval for such action in writing. The request must specify the justification for the proposed correction or withdrawal. If a bidder is allowed to withdraw a bid, he may be required to withdraw all other bids he has submitted for that solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:

#### **§509. Determination of Responsibility**

A. The Real Estate Leasing Section may request that an apparent low bidder submit suitable evidence that he is a responsible bidder. A responsible bidder shall:

1. have adequate financial resources for performance, or have the ability to obtain such resources as required during performance;
2. have the necessary experience, organization, technical qualifications, skills, and facilities, or have the ability to obtain them (this may include subcontractor arrangements);
3. be able to comply with the proposed or required occupancy date; and
4. not have an unsatisfactory record of contract performance.

B. The Real Estate Leasing Section may request the following information:

1. a letter of credit from a financial institution;
2. financial statement;
3. a letter of commitment from the bank or other institution financing the project and addressed to the Division of Administration, stating the amount and terms of commitment to the Lessor;
4. information from the prospective Lessor, including representations and other data contained in proposals, or other written statements or commitments, such as financial assistance and subcontracting arrangements;
5. other information supportive of financial responsibility, including financial data, and records concerning lessor performance;
6. publications, including credit ratings and trade and financial journals; and
7. information from other sources, including banks, other financial companies, state departments and agencies, and courts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:

#### **§510. Assignment of Proceeds of Lease and Assignment of Lease**

Assignments of Lease and Assignments of Proceeds of Lease by a lessor must be approved in advance and in writing by the Office of Facility Planning and Control—Real

Estate Leasing Section. Approval of a requested assignment shall not be unreasonably or arbitrarily withheld by either party. However, the approval of any assignment of proceeds of lease may be conditioned upon receipt of reasonable assurances from assignee of his ability and willingness to assume responsibility for performance of the terms of the lease in the event of failure of performance by the assignor. Assignment of Lease forms and Assignment of Proceeds of Lease forms shall be provided by the Office of Facility Planning and Control, Real Estate Leasing Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:

#### **§511. Resolution of Controversies**

A. Right to Protest. Any prospective lessor who is aggrieved in connection with the solicitation or award of a contract may protest to Facility Planning and Control. Protests with respect to a solicitation shall be submitted in writing no later than 10 days prior to the opening of bids. If a person protests a solicitation, an award cannot be made until said protest is resolved. Protests with respect to the award of a contract shall be submitted in writing within 14 days after contract award. Said protest shall state fully and in particular, the reason for protest if a protest is made with respect to the award of a contract. Work on the contract cannot be commenced until it is resolved administratively.

B. Decision. The assistant director, Facility Planning and Control, must notify the protesting party in writing and the legal counsel of the Division of Administration within 14 days after receipt of said protest whether or not the protest is denied or granted. If the protest with reference to the solicitation is granted, the solicitation will be canceled and reissued. If the protest with reference to the award is granted, then the lease will be voided and the remaining solicitations may be re-evaluated for another selection. If another selection cannot be made or if it appears to be in the best interest of the state, a new solicitation will be issued.

C. Appeal. If an aggrieved party is not satisfied with the rendered decision, then that party may appeal said decision in writing to the commissioner of administration within seven days of the decision. The protesting party should fully explain the basis of his appeal. The commissioner then must render a decision in writing within 14 days of receipt of the appeal. The commissioner's decision is final and an aggrieved party may bring judicial action within two weeks from receipt of said decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control in LR 11:945 (October 1985), amended in LR 22:345 (May 1996), repromulgated LR 26:

#### **§512. Lease Clauses**

A. A lease may include clauses providing for equitable adjustments in prices, time for performance, or other contract provisions, as appropriate, covering such subjects as:

1. the unilateral right of the state to order in writing changes in the work within the general scope of the contract in the drawings, designs, or specifications for space to be furnished;



2. the unilateral right of the state to order in writing temporary stopping of the work or delaying of performance; and

3. variations between estimated and actual quantities.

B. A lease may include clauses providing for appropriate remedies covering such subjects as:

1. liquidated damages as appropriate;
2. specified excuses for delay or non-performance;
3. termination of the contract for default; and

4. termination of the contract in whole or in part if sufficient funds have not been appropriated by the Legislature.

C. A lease may also provide that in the event that the lessor fails to fulfill or comply with the terms of any contract, he may be subject to disqualification on future state projects and the chief procurement officer may award the contract to the next lowest responsible bidder, subject to acceptance by that bidder, and charge the difference in cost to the defaulting lessor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:

#### **§513. Emergency Procurement**

A. The Office of Facility Planning and Control, Real Estate Leasing Section, may make emergency procurements for acquisition of housing space of 5,000 square feet or more when there exists an imminent threat to the public health, welfare, safety or public property.

B. The declaration of an emergency must be made in writing by the Chief Procurement Officer or his designee, fully documenting the nature of the emergency, the circumstances leading up to the emergency and a description of the threat to public health, welfare, safety or public property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1598.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:

#### **§514. Sole Source Procurements**

The Office of Facility Planning and Control, Real Estate Leasing Section may make sole source procurements for acquisition of housing space of 5,000 square feet or more or may amend an existing lease to total in excess of 5,000 square feet or more when the Chief Procurement Officer, or his designee, determines in writing that there is only one source for the required space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1597.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department, LR 26:

#### **§515. Amendments to Leases**

A. Additional Space. Any additional space added is to be only that for which the requirement could not reasonably have been foreseen at the time of execution of the lease or the latest option renewal; the additional space provision is not to be used to circumvent the bid law.

1. Leases for Space of Less than 5,000 Square Feet. Any lease for less than 5,000 square feet may be amended

by negotiation between the user agency and the lessor. The square footage of such a lease may be increased up to a total of 4,999 square feet with the approval of the Division of Administration. If the amendment causes the space to measure 5,000 square feet or more, the additional space must be procured in accordance with RS 39:1594 unless it is deemed a sole source or emergency procurement.

2. Leases for Space of 5,000 Square Feet or More. Any lease for space of 5,000 square feet or more, may be amended by negotiations between the user agency and the lessor to include up to 4,999 square feet of additional space. Such amendment must also be approved by the Division of Administration. If the amendment adds 5,000 square feet or more, the additional space must be procured in accordance with RS 39:1594 unless it is considered a sole source or emergency procurement.

B. Modifications and Alterations. In the event alterations to or modifications of space currently under lease are required to meet changed operating requirements, a lease may be amended. Such lease amendment may, with the approval of the Division of Administration, provide an adjustment in monthly lease payments not to exceed twenty five (25%) percent of the original annual lease price per square foot, sufficient to reimburse the lessor for paying for the leasehold improvements. Any adjustment in lease payments shall also require the approval of the Joint Legislative Committee on the Budget. The continuance of a rental adjustment in excess of twenty five (25%) percent of the original rental rate shall be further contingent on the appropriation of funds in the following fiscal years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:

#### **§516. Renegotiation and Renewal of Current Leases**

A. Leases of Less than 5,000 Square Feet. If an agency wishes to renew an existing lease of less than 5,000 square feet, it may renegotiate with the present lessor or attempt to obtain proposals from other prospective lessors.

B. Space of 5,000 Square Feet or More. An existing lease for office or warehouse space of 5,000 square feet or more, may be renegotiated with the present lessor, but only after the Division of Administration has entered into a competitive negotiation process involving discussions with at least three (3) offerors who submit written proposals. If less than three (3) written proposals are submitted, the Division of Administration may, nevertheless, hold discussions with those offerors, as well as with the current lessor, but without revealing information gleaned from competing proposals to other offerors. Such proposals shall be solicited by advertising as provided in R.S. 39:1594(C).

C. Evaluation of Proposals. If the Commissioner of Administration, or his designee, determines after evaluation of the proposals and discussions with the current lessor that to renew the present lease would be in the best interest of the State, an existing lease may be renewed. The Commissioner, or his designee, may enter into a lease with one of the other offerors if determined to be in the best interest of the State. In making such a determination, the Commissioner, or his designee, shall take into consideration, over the duration of the lease, rental rates, the amount of funds necessary to

relocate, any geographical considerations particular to that state program, the amount of disruption to state business that may be incurred in moving to a new location, and any other relevant factors presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 26:

**§517. Revised Statutes and Louisiana Administrative Code**

These regulations shall be read and interpreted jointly with Chapter 17 of Title 39 of the Revised Statutes and, when not in conflict, with the purchasing rules of the *Louisiana Administrative Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control Department in LR 10:902 (November 1984), amended LR 26:

Interested persons may submit written comments within 20 days of publication to: Roger Magendie, Director, Office of Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Roger Magendie  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Rental and Lease Procedure and Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is not anticipated that the proposed rule changes will have any implementation costs or savings to the State or to local governmental units because the changes were required by changes in the law itself.

For example, Acts 1988, No. 919, Section 3 repealed subsec. E of La. R.S. 39:1641 and amended subsec. F of the same statute. As a result, certain agencies were no longer exempt from the Procurement Code's provisions regarding the acquisition of housing space. In addition, Acts 1997, No. 600, Section 1 repealed subsec. F of La. R.S. 39:1641. As a result, leases for the storage of voting machines are now administered by the Office of Real Estate Leasing of the Office of Facility Planning and Control. These changes are reflected in the proposed changes to the *Louisiana Administrative Code*, Title 34, Part III, Chapter 5, Section 501, Authority, Policy, Purpose, and Application.

Another statutory change was the increase in the amount of square feet necessitating advertisement and competitive bidding. Acts 1995, No. 635 amended La. R.S. 39:1643(A), increasing from 2,500 to 5,000 square feet the amount of square feet in a lease that must be publicly advertised and bid. This change is reflected in Sections 503 and 515 of the proposed rules.

Section 505 of the current rules is now incorporated in Section 515 of the proposed rules.

Section 507 of the current rules is now incorporated in Section 503 of the proposed rules.

Other than the above-cited substantive changes necessitated by changes in the law itself, the proposed rules are basically the

same, but re-written and organized in a format easier to comprehend.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rules will have any 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)**

It is not anticipated that any changes in the rules will increase costs or benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that the proposed rules will have any effect on competition and employment.

Roger Magendie  
Director  
9911#074

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

(Editor's Note: The following notice, which appeared on pages 2092 through 2096 of the October 20, 1999 *Louisiana Register*, is being republished to include the hearing date which was inadvertently omitted.)

Registered Equine Dentists  
(LAC 46:LXXXV.Chapter 15)

The Louisiana Board of Veterinary Medicine proposes to adopt LAC 46:LXXXV.1500 through 1519 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. These proposed new rules pertain to the registration and regulation of individuals to practice equine dentistry and other related matters. The proposed rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. These proposed new rules are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 15. Registered Equine Dentists**

**§1500. Definitions**

A. All definitions used in this chapter shall have the meaning assigned to them in La. R.S. 37:1560. In addition, the following definitions shall be applied.

*Approval*—as used in R.S. 37:1562(C)(2) means the veterinarian shall make an informed decision based upon his professional judgment after giving consideration to the notification provided by an equine dentist which shall include a visual inspection conducted by the veterinarian prior to the commencement of the procedure.

*Continuing Education*—board-approved educational experiences in equine dentistry, which may be in the form of institutes, seminars, lectures, conferences, workshops, and other modes of delivery so as to maintain and improve

technical competency for the health, welfare, and safety of the citizens of Louisiana.

*Continuing Education Unit (CEU)*—one hour of activity or participation in a continuing educational program approved by the board.

*Equine Owner's Veterinarian*—veterinarian licensed by the board who has established a veterinary-client-patient relationship as a primary care provider or as a consultant to the primary care provider.

*Notify or Notification*—

a. with regards to the rasping (floating) of molar, premolar and canine teeth, and the removal of deciduous incisor and premolar teeth (caps), shall mean full written or verbal person to person communication with the veterinarian prior to the commencement of the procedure; or

b. with regards to extracting equine first premolar teeth (wolf teeth), shall mean full written or verbal person to person communication with the veterinarian prior to commencement of the procedure and after approval is given by the veterinarian; however, written confirmation of the notification prepared by the registered equine dentist shall be sent to and received by the veterinarian within seven days after the procedure, which written confirmation shall include:

- i. owner's name, address, and phone number;
- ii. identifying information concerning the horse, which shall include name, permanent identification marks, age, sex, and color;
- iii. method of restraint used during the procedure;
- iv. type of dental procedure performed, including methods used;
- v. description of the outcome of the procedure;
- vi. recommendations, if any, to the owner following extraction of any first premolar teeth.

*Possession*—actual possession whereby the registered equine dentist has his certificate readily available.

*Practice of Equine Dentistry*—means the rasping (floating) of molar, premolar and canine teeth, and the removal of deciduous incisor and premolar teeth (caps); additionally, an equine dentist may extract equine first premolar teeth (wolf teeth) after complying with the requirements set forth in R.S. 37:1562(C)(2) and the board's rules.

*Referral*—a verbal request to perform equine dentistry made to a registered equine dentist by a veterinarian licensed by the board who has established a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700 and who is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site.

*Referral Veterinarian*—a veterinarian licensed by the board authorized by the existence of a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700 to make a referral to perform equine dentistry to a registered equine dentist and who is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site.

*Substantially Involved in the Care and Maintenance of Horses in the Horse Racing Industry in Louisiana*—previous practical experience within the horse racing industry that included equine dental procedures.

*Unprofessional Conduct*—in addition to the definition set forth in R.S. 37:1564(A)(10), shall include the following:

a. making or participating in any communication, advertisement or solicitation which is false, fraudulent, deceptive, misleading or unfair, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim;

b. initiation or continuation of services that are contraindicated or cannot reasonably result in beneficial outcome;

c. abuse or exploitation of the provider-patient relationship for the purpose of securing personal compensation, gratification, or benefit unrelated to the provision of service;

d. failure to comply with the practice requirements set forth in R.S. 37:1562;

e. failure to comply with the duties established in R.S. 37:1560 et seq. and/or the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

### **§1501. Applications for Certificates of Approval**

A. Pursuant to La. R.S. 37:1561 and 1562(D), applicants shall submit the following items to the board:

1. a completed application form approved by the board, which shall be sworn to and subscribed before a notary public;

2. evidence that the applicant is a current resident of this state on July 1, 1999, which evidence must be one of the following:

a. a utility bill statement in the name of the applicant and for a Louisiana address which includes service for July 1, 1999; or

b. any other document providing evidence of residency on July 1, 1999, which is approved by a majority of a quorum of the board;

3. evidence that the applicant is substantially involved in the care and maintenance of horses in the horse racing industry in Louisiana, which evidence shall be the following:

a. an affidavit from the applicant sworn to and subscribed before a notary public; and

b. two letters of reference on board-approved forms from veterinarians licensed by the board which shall attest to the applicant's character and ethical standards as they apply to his knowledge in the field of equine dentistry and his substantial involvement in the care and maintenance of horses in the horse racing industry in Louisiana; and

4. evidence that the applicant was licensed in good standing as an equine dentist by the Louisiana Racing Commission on or before July 1, 1995, which evidence must be a certified statement directly forwarded to the board office from an authorized official of the Louisiana Racing Commission attesting to the applicant's licensure in good standing on or before July 1, 1995;

5. payment of all applicable fees for registered equine dentist fees established by the board;

6. a current passport type photograph of the applicant;

7. certification by the applicant that he has not violated or been subject to any of the grounds for denial of a certificate of approval as listed in La. R.S. 37:1564;

8. a list of all professional certificates or licenses that the applicant currently holds and/or has held.

B. The Board may reject any applications which do not contain full and complete answers and/or information as requested and may reject any application if any information furnished in the application is fabricated, false, misleading, or incorrect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

#### **§1503. Fees**

A. The Board hereby adopts and establishes the following fees for registered equine dentists.

Original Registration Fee	\$ 200
Annual Renewal of Registration Fee	\$ 125
Late renewal fee	\$ 100
Application fee	\$ 100

B. Renewals received after the expiration date as provided in La. R.S. 37:1566, shall be charged a late renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

#### **§1505. Renewal of Certificates**

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form which shall be provided by the board, submitting any other documents required by this chapter, and by payment of the annual renewal fee established by the board.

B. Each year, ninety days prior to the expiration date of the license, the board shall mail a notice to each registered equine dentist stating the date his certificate will expire and providing a form for re-registration.

C. The certificate of approval will be renewed for any person who complies with the requirements of this chapter.

D. Re-registration forms for renewal of certificates of approval, complete with payment of fees and any other documents required by this chapter, shall be postmarked no later than the expiration date of the certificate each year. Re-registration forms postmarked after midnight of the expiration date will be subject to a late renewal fee as established by the board. This fee is in addition to the regular fee for annual renewal.

E. Continuing education requirements prescribed by this chapter must be satisfied before a certificate of approval is renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

#### **§1507. Expired Certificate**

A. A registered equine dentist whose certificate has expired may be reinstated within one year of its expiration by making written application for renewal, paying the current renewal fee plus all delinquent renewal fees, and meeting the continuing education requirements prescribed by the board.

B. The identifying number of an expired certificate of approval shall not be issued to any person other than the original holder of that number.

C. A registered equine dentist who fails to renew a certificate of approval within one year of its expiration must reapply for a new certificate. A certificate of approval shall not be issued without the approval of a majority of the quorum of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

#### **§1509. Revoked Certificate**

A. A registered equine dentist whose certificate has been revoked pursuant to La. R.S. 37:1564 must reapply for a new certificate.

B. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1564 shall not be issued a new certificate unless approved by a majority of a quorum of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

#### **§1511. Review or Appeal of Denial of Application**

A. Any registered equine dentist aggrieved by a decision of the board, other than a holder of a certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1560 et seq. may, within 30 days of notification of the board's action or decision, petition the board for a review or appeal of the board's actions.

B. Such petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

C. Upon receipt of such petition, the board may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

#### **§1513. Disciplinary Proceedings**

A. The Board, after due notice and hearing as set forth in the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq. and LAC 46:LXXXV.1401, may deny, reprimand, restrict, fine, probate, suspend, revoke or pursuant to LSA R.S. 37:1560 et seq. otherwise sanction a registered equine dentist or applicant for certification on a finding that the person has violated LSA R.S. 37:1560 et seq. or any of the rules promulgated by the board, or prior final decisions and/or consent orders involving the registered equine dentist or applicant for certification.

B. Any registered equine dentist against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the Board pursuant to R.S. 37:1560 et seq. and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and LAC 46:LXXXV.1401.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

#### **§1515. Practice and Duties**

A. Except as provided in R.S. 37:1562, no person shall practice equine dentistry in Louisiana unless issued a certificate of approval by the board.

B. Pursuant to La. R.S. 37:1562(C)(1), a registered equine dentist who practices equine dentistry at a location other than at a racetrack shall notify the horse owner's veterinarian prior to the commencement of the practice of equine dentistry.

C. Pursuant to La. R.S. 37:1562(C)(1), in the event that the horse owner does not have a veterinarian, the equine dentist shall obtain a referral from a veterinarian licensed by the board who has established a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700. Such referral must be documented by the veterinarian to include:

1. the establishment of the veterinarian-patient-client relationship as defined in LAC 46:LXXXV.700 prior to referral; and

2. that the referral veterinarian is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site;

3. the referral veterinarian must submit a copy of the written referral which must be received by the registered equine dentist within seven days from the referral;

4. such documentation shall be made part of the records maintained by the veterinarian and the registered equine dentist.

D. Pursuant to La. R.S. 37:1562(C)(2), prior to the initiation of an extraction of first premolar teeth (wolf teeth), the registered equine dentist shall notify and obtain the approval of the equine owner's veterinarian or referral veterinarian.

#### **E. Duties**

1. Prohibition on Drugs. A registered equine dentist shall not prescribe, recommend, or administer any legend drug or controlled substance.

2. Record Keeping. A registered equine dentist shall establish and maintain legible records which can provide a veterinarian with a full understanding of the findings concerning and treatment provided to each horse. Each registered equine dentist shall maintain an individual record on each horse to include, but not limited to, the following:

a. owner's name, address, and phone number; identifying information concerning the horse, which shall include name, permanent identification marks, age, sex, and color; nature of dental complaint; method of restraint used during a procedure; type of dental procedure performed; description of the outcome of the procedure; and recommendations, if any, to the owner following the procedure;

b. original of written notifications submitted to veterinarians regarding treatment;

c. records shall be maintained for at least five years;

d. records are the responsibility and property of the registered equine dentist. The registered equine dentist shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client, except that the registered

equine dentist shall provide any and all records as requested by the board to the board; and

e. copies of records shall be provided to the client or the client's authorized representative upon written request of the client. A reasonable charge for copying and providing records may be required by the registered equine dentist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

#### **§1517. Continuing Education**

##### **A. Basic Requirements**

1. A minimum of six (6) continuing education units is required each fiscal year (July 1 through June 30) as a prerequisite for renewal of certification. A registered equine dentist who fails to obtain a minimum of six (6) continuing education units within the prescribed twelve-month period will not meet the requirements for renewal of his certificate. Notwithstanding the requirements of this section, for the period August 20, 1999 - June 30, 2000, a minimum of six (6) continuing education units is required as a prerequisite for renewal of certification during the July 1, 2000 - September 30, 2000 renewal period.

2. All continuing education programs must be approved by the board prior to attendance.

3. Proof of attendance, which shall include the name of the course, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual certificate renewal form. Proof of attendance must include verification from the entity providing or sponsoring the educational program.

4. All hours shall be obtained in the twelve months preceding the renewal period of the certificate.

5. Each registered equine dentist must fulfill his annual education requirements at his own expense.

##### **B. Failure to Meet Requirements**

1. If a registered equine dentist fails to obtain a minimum of six (6) continuing education units within the prescribed twelve-month period, his certificate shall be expired and his certificate shall remain expired until such time as the continuing education requirements have been met and documented to the satisfaction of the board.

2. The board may grant extensions of time for extenuating circumstances. The registered equine dentist must petition the board at least 30 days prior to the expiration of the certificate. The board may require whatever documentation it deems necessary to verify the circumstances necessitating the extension.

3. Failure to comply with the requirements of this section shall be considered unprofessional conduct.

##### **C. Approved Continuing Education Programs**

1. It is the responsibility of the registered equine dentist to submit a request for approval of a continuing education program no less than 60 days prior to the program. Information to be submitted shall include:

a. the name of the proposed program and sponsor organization;

b. course content;

c. the number of continuing education units to be obtained by attendees.

2. Continuing education units which are submitted for renewal and were not pre-approved by the board may be reviewed by the board. If the units are not approved, the

registered equine dentist will be required to take additional continuing education in an approved program prior to the renewal of his certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

**§1519. Unprofessional Conduct on Part of the Veterinarian**

After due notice and hearing as set forth in the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq. and the board's rules, more particularly section 1401 et seq., a veterinarian who fails to comply with a rule promulgated by the board regarding the practice of equine dentistry shall be subject to disciplinary action and sanction by the board for unprofessional conduct pursuant to the Louisiana Veterinary Practice Act, LSA R.S. 37:1526(A)(14) and the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1526(A)(14), 37:1518(A)(9) and 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

Interested parties may submit written comments to Kimberly Barbier, administrative director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on December 22, 1999. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on December 29, 1999 at 9:00 am at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Kimberly B. Barbier  
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Registered Equine Dentists**

**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, except for those associated with publishing the new rule (estimated \$800). Registered equine dentists will be informed of this rule via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed fees for original registration and application will have an impact in fiscal year 1999/2000, with the \*certificate renewals not taking place until July 1, 2000 (2000/2001). The anticipated increase in agency self-generated funds for FY 1999/2000 and 2000-01 is base on the following:

Category	Current Revenue	Proposed Revenue	Net Effect
Original Registration Fee	\$0	6 x \$200=\$1,200	\$1,200
Annual Renewal Fee	\$0	6 x \$125=\$750	\$750
Late Renewal Fee	\$0	1 x \$100=\$100	\$100
Application	\$0	6 x \$100=\$600	\$600

Fee			
<b>Total</b>	\$0	\$2,650	\$2,650

The additional renewal fee and late renewal fee in subsequent FYs is projected to be the same

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Registered equine dentists and applicants will be affected by the proposed action. The net cost effect on each category is illustrated in item II above. There will be no new paperwork required.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No impact on competition and employment is anticipated as a result of the proposed new rule.

Kimberly B. Barbier  
Administrative Director  
9911#004

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Licensure, Continuing Education and Discipline  
(LAC 46:LX.111, 503, 705,  
801, 803, 1305, 1309, 1325, 2107)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S.49:950 et seq., hereby intends to amend the following rules governing the practice of mental health counseling in Louisiana.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

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

**Chapter 1. General Provisions**

**§111. Notification of Change**

Every licensed professional counselor/counselor intern shall immediately notify in writing the Licensed Professional Counselors Board of Examiners of any and all changes in name, address, and phone number. Failure to comply with this rule within 30 days of change will result in a fine as set forth in Chapter 9.D.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 26:

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

**§503. Definitions**

\* \* \*

*Mental Health Counseling Services*—those acts and behaviors coming within the "practice of mental health counseling" as defined in this Chapter, including diagnosis and treatment of conditions or disorders requiring mental health counseling as defined in R.S.37:1103(4)(a). However, nothing in this Chapter shall be construed to authorize any

person licensed hereunder to administer or interpret tests in accordance with the provisions of R.S. 37:2352(5), except as provided by Title 46, Part LXIII, Chapter 17, Section 1702(E) of the Louisiana Administrative Code, or engage in the practice of psychology or to prescribe, either orally or in writing, distribute, dispense, or administer any medications.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 16:302 (April 1990), LR 18:51 (January, 1992), amended by Board of Examiners of Professional Counselors, LR 22:103 (February 1996), amended LR 24:437 (March 1998), LR 24:2124 (November 1998), amended by Licensed Professional Counselors Board of Examiners, LR 26:

## **Chapter 7. Requirements for Licensure**

### **§705. Supervision Experience**

A. - A.14. ...

B. Qualifications of a Supervisor

1. Those individuals who may provide supervision to counselor interns must meet the following requirements:

a. Licensure requirements: The supervisor must hold a Louisiana license as a Licensed Professional Counselor.

b. Counseling practice: The supervisor must have been practicing mental health counseling in their setting (i.e., school, agency, private practice) for at least five years. Two of the five years experience must be post licensing experience.

c. Training in supervision: Supervisors must have successfully completed either i or ii below:

i. Graduate-level academic training: At least one graduate-level academic course in counseling supervision. The course must have included at least 45 clock hours (equivalent to a three credit hour semester course) of supervision training.

ii. Professional training: A board approved professional training program in supervision. The training program must be a minimum of 25 direct clock hours with the trainers and meet presentation standards established by the board.

2. - D.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 18:269 (March, 1992), amended LR 21:466 (May 1995) amended LR 22:102 (February 1996), amended LR 24:1294 (July 1998), amended LR 24:2124 (November 1998), amended by Licensed Professional Counselors Board of Examiners, LR 26:

## **Chapter 8. Renewal of License**

### **§801. Renewal**

A licensed professional counselor shall renew his/her license every two years in the month of June by meeting the requirement that 40 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee. The licensee should submit a declaration statement only if there has been a change in area of expertise, with the content being subject to

board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in areas of expertise noted in the declaration statement. The chairman shall issue a document renewing the license for a term of two years. The license of any mental health counselor who fails to have this license renewed biannually during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed within a period of two years after the expired renewal date upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement. Application for renewal after two years from the date of expiration will not be considered for renewal; the individual must apply under the current licensure guidelines.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 18:271 (March, 1992), amended by Board of Examiners for Professional Counselors, LR 22:103 (February 1996), LR 24:1294 (July 1998), amended by Licensed Professional Counselors Board of Examiners, LR 26:

### **§803. Continuing Education Requirements**

A. General Guidelines

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every two years, with the exception that a licensee renewing a license which expires on June 30, 2000 must accrue 25 clock hours of continuing education.

2. One continuing education hour (CEH) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. CEHs accrued beyond the required 40 hours may not be applied toward the next renewal period. Renewal periods run from July 1 to June 30, every two years.

5. The licensee is responsible for keeping a personal record of his/her CEHs until official notification of renewal is received. Do not forward documentation of CEHs to the Board office as they are accrued.

6. At the time of renewal ten percent of the licensees will be audited to ensure that the continuing education requirement is being met. If you are one of the ten percent chosen, you will be requested by letter to submit documentation of your CEHs.

B. Approved Continuing Education

1. Continuing education requirements are meant to encourage personal and professional development throughout the LPC's career. For this reason a wide range of options are offered to accommodate the diversity of counselors' training, experience and geographic locations.

2. An LPC may obtain the 40 CEHs through one or more of the options listed below.

a. Continuing Education Approved by Other Organizations: Continuing education that is approved by either the American Counseling Association (ACA), its divisions, regions and state branches - Louisiana Counseling Association (LCA) or the National Board of Certified Counselors (NBCC) will be accepted by the Board of Examiners. One may contact these associations to find out

which organizations, groups or individuals are approved providers. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification can consist of copies of certificates of attendance.

b. Continuing Education not Preapproved: For those organizations, groups or individuals that do not carry provider status by one of the above associations, the continuing education hours will be subject to approval by the Board of Examiners at the time of renewal. The Board will not preapprove any type of continuing education. The continuing education must be in one of the twelve approved content areas listed in §803.C, and be given by a qualified presenter. A qualified presenter is considered to be someone at the master's level or above and trained in the mental health field or related services. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification for workshops, seminars, or conventions can consist of copies of certificates of attendance. Typically one Continuing Education Unit (CEU) is equivalent to 10 clock hours.

c. Coursework: CEHs may also be gained by taking coursework (undergraduate or graduate) from a regionally accredited institution in one of the twelve approved content areas for continuing education listed in §803.C. One may take a course for credit or audit a course. In a college or university program, one semester hour is equivalent to 15 clock hours and one quarter hour is equivalent to 10 clock hours. Therefore, 45 CEHs will be given for a three hour university course completed at a regionally accredited university. Verification for coursework can consist of either copies of transcripts for coursework taken for credit or letter of attendance from instructor for courses audited.

d. Home Study: The LCA journal, video presentations and approved teleconferences are all approved home study options. Each option must carry a provider number from either NBCC, LCA or other board approved mental health organizations. Each activity will specify the number of CEHs that will be granted upon completion. Verification consists of a certificate issued by NBCC, LCA or certificates from other professional mental health organizations that will be reviewed by the Board.

e. Presentations: Presenters may get credit for original presentations at a rate of five clock hours per one hour presentation. Presenters must meet the qualifications stated in b above. The presentation must be to the professional community; not to the lay public or a classroom presentation. The presentation must also be in one of the twelve approved content areas listed in §803.C. Verification of your presentation consists of obtaining a letter from the workshop/convention coordinator stating the topic, date, and number of hours of presentation.

f. Publishing: Authors may receive five clock hours per article or chapter in a book. The article must be published in a professional refereed journal. Both articles and chapters must be in one of the twelve approved content areas listed in §803.C. Verification will consist of either a reprint of the article/chapter, or a xeroxed copy of the article/chapter, cover of the book/journal and page listing the editor or publisher.

g. Counseling: One may receive one clock hour of continuing education per counseling hour as a client. To qualify, one must be a client receiving services from a licensed mental health professional having qualifications equal to or exceeding those currently required of LPC's. Consultation and supervision hours do not qualify. Verification will consist of a letter from the counseling mental health professional verifying client therapy hours.

h. Research: One may receive one clock hour of continuing education per hour of planning or conduct of, or participation in, counseling or counseling-related research. To qualify, this activity must constitute an original and substantive educational experience for the learner. Verification will consist of a letter from the faculty member or researcher.

i. Organizational and Regulatory: One may receive one clock hour of continuing education per hour of service to the LPC Board of Examiners or to a Board-approved counseling service organization. To qualify, this activity must constitute an original and substantive educational experience for the learner. Verification will consist of a letter or certificate from the Board or from the Board-approved counseling service organization.

C. Approved Content Areas. Continuing Education Hours must be in one of the following 12 content areas:

1. Counseling Theory: includes a study of basic theories, principles and techniques of counseling and their application in professional settings.

2. Human Growth and Development: includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory and learning theory within appropriate cultural contexts.

3. Social and Cultural Foundations: includes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles.

4. The Helping Relationship: includes studies that provide a broad understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation of client or consultee change.

5. Group Dynamics, Processing and Counseling: includes studies that provide a broad understanding of group development, dynamics, and counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches.

6. Lifestyle and Career Development: includes studies that provide a broad understanding of career development theories; occupational and educational information sources



and systems; career and leisure counseling, guidance, and education; lifestyle and career decision-making; career development program planning and resources; and effectiveness evaluation.

7. Appraisal of Individuals: includes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to appraisal, data and information gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes.

8. Research and Evaluation: includes studies that provide a broad understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, publication of research information, and ethical and legal considerations associated with the conduct of research.

9. Professional Orientation: includes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, professional credentialing and management of private practice and agency settings.

10. Marriage and Family: includes studies that provide a broad understanding of marriage and family theories and approaches to counseling with families and couples. This includes appraisal of family and couples systems and the application of these to counseling families and/or couples.

11. Chemical Dependency: includes studies that provide a broad understanding of chemical dependency issues, theories, and strategies to be applied in the helping relationship for chemical dependency counseling.

12. Supervision: includes studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised setting.

#### D. Types Of Documentation Needed For Verification

1. Copy of certificate of attendance for workshops, seminars, or conventions.

2. Copy of transcript for coursework taken for credit/letter of attendance from instructor for courses audited.

3. Home Study verification form or certificate issued by LCA/NBCC.

4. Letter from workshop/convention coordinator verifying presentations.

5. Copy of article, cover and editorial board page for publications.

6. Letter from counseling mental health professional verifying number of hours in counseling as a client.

7. Letter from the faculty member or researcher verifying number of hours in research.

8. Letter or certificate from the LPC Board of Examiners, or from the Board-approved counseling service organization, verifying number of hours of service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 18:271 (March, 1992), amended by Licensed Professional Counselors Board of Examiners, LR 26:

## Chapter 13. Disciplinary Proceedings

### §1305. Initiation of Complaints

A. - B. ...

C. Pursuant to its authority to regulate this industry, the board through its Ad Hoc Committee on Disciplinary Affairs, may conduct investigations into alleged violations by a licensed professional counselor or applicant of this Chapter or rules and regulations promulgated pursuant thereto, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. The confidential or privileged records of a patient or client which are subpoenaed are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:260 (February 1999), amended LR 26:

### §1309. Formal Hearing

A. - C.12.a.iii. ...

b. Deliberation

i. the board will deliberate in closed session;

ii. the board will vote on each charge as to whether the charge has been supported by the evidence; (the standard will be "preponderance of the evidence")

iii. after considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor or applicant for licensure; and

iv. the board by affirmative vote of a majority of those members voting, shall be needed to withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of this Chapter or otherwise discipline a licensed professional counselor or applicant.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusion of law determined as a result of the hearing. The party is notified by mail of the final decision of the board.

13. - 14.c.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:260 (February 1999), amended LR 26:

### §1325. Injunction

A. The board may, through the attorney general of the state of Louisiana, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act in violation of the provisions of this Chapter, any rules or regulations adopted by the board, and any codes of ethics adopted by the board.

B. If it is established that the defendant has been or is committing an act in violation of this Chapter or of rules or regulations adopted pursuant to this Chapter, including any codes of ethics adopted by the board, the court, or any judge thereof, shall enter a decree enjoining said defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of this Section, this court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Chapter.

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

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:263 (February 1999), amended LR 26:

## **Chapter 21. Code of Conduct**

### **§2107. Professional Responsibility**

A. - D.4. ...

#### **5. Doctoral Degrees From Other Fields**

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

b. A doctoral degree in counseling or a closely related field is defined as a doctoral degree from a regionally accredited university that shall conform to one of the criteria below:

- i. a CACREP accredited doctoral counseling program;
- ii. a doctoral counseling program incorporating the word "counseling" or "counselor" in its title;
- iii. a doctoral program incorporating a counseling-related term in its title (e.g. "Marriage and Family Therapy"); or
- iv. a doctoral program in a behavioral science that would augment the counseling skills of a Licensed Professional Counselor.

E. - F.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:441 (March 1998), LR 26:

Interested persons may submit comments in writing to Gary S. Grand, Board Chair, 8631 Summa Avenue, Suite A, Baton Rouge, LA 70809. Comments will be accepted through December 20, 1999. A public hearing will be held on December 28, 1999, 5:00 p.m., at Central State Hospital, West Shamrock, Building 14, Room 127, Pineville, LA.

Gary S. Grand  
Board Chair

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Licensure, Continuing Education and Discipline**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a one-time implementation cost of \$550 to promulgate the rule. The cost will be absorbed within the budget of the LPC Board. There will be no impact to state or local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that there will be revenue collections of \$1,250 in FY/00, \$1,000 in FY/01, and \$700 in FY/02 due to fine imposed on those who do not report address changes within 30 days.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will allow a \$50 fine to be imposed on those who do not report address changes within 30 days.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Employment opportunities for LPCs will increase because the law now gives Mental Health Counselors (LPCs) statutory authority to diagnose and treat conditions and/or disorders requiring mental health counseling.

Gary S. Grand  
Board Chair  
9911#037

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

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

#### **Sanitary Code—Commercial Body Art**

In accordance with the Administrative Procedure Act, the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, Sanitarian Services Section, Food and Drug Unit proposes to adopt the following rules pertaining to the regulation of commercial body art facilities. These rules are being promulgated as required by Act 393 of 1999 which enacted LSA - R.S. 40:2741 through 40:2744.

These proposed rules will be incorporated into the State Sanitary Code and, when adopted, will become Chapter XXVIII of that Code as provided for in LSA - R.S. 40:4.

This chapter of the Sanitary Code establishes uniform rules for the operation of commercial body art facilities within the state. A commercial body art facility means any location, place, area, or business, whether permanent or temporary, which provides consumers access to personal service workers who for remuneration perform tattooing of the skin, body piercing or the application of permanent cosmetics to the skin. These rules do not apply to ear piercing with a disposable single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear. These rules do not apply to physicians licensed by the Louisiana State Board of Medical Examiners.

The proposed rule may impact the formation, stability and autonomy of the family in that it allows for children 18 years of age or younger to be tattooed or pierced only after parent or guardian has signed an approval statement and is present in the facility while the tattoo or piercing procedure is being performed. The rule could also possibly impact family earnings and budgets due to increases in expenses and or earnings associated with the operation of those families who own, operate or manage a tattoo or piercing facilities.

The text of this notice of intent may be viewed, in its entirety, in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments or views on this proposal to William D. Swiler, R.S., Sanitarian Program Administrator, Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, Sanitarian Services Section, Food and Drug Unit, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810. A public hearing on these proposed rules has been scheduled for Tuesday, December 28, 1999 at the Office of Public Health, Division of Environmental Health Services, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810. The hearing will be conducted in the second floor conference room (Room 230) at 10 o'clock a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the said hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Sanitary Code—Commercial Body Art**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs are estimated to be \$155,921 for FY 99-00. Subsequent annual operation costs will be \$149,831 for FY 00-01 and \$155,182 for FY 01-02. This figure reflects costs of salaries and related benefits for three staff positions, operating expenses including travel, equipment necessary to implement the project and an associated allocated administrative cost projected at 30 percent in FY 99-00 and subsequent years.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

State Revenue collections should increase as a result of the fee schedule as set by Act 393 of 1999. This measure includes payment of fees to DHH, estimated at \$80,000 for FY 99-00 with a 45 percent reduction (\$37,375) in the following years because of lower renewal charges.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule, in compliance with Act 393 of 1999, will directly affect commercial body art facility owners who will be required to complete an application form, pay a registration fee of \$500 and an annual renewal fee of \$250 for each subsequent year of operation, submit to required inspections of facilities, train operators and upgrade existing property and equipment in compliance with applicable regulations. This rule will also require a registration fee of \$50 and an annual renewal fee of \$30 for each operator/artist in each commercial body art facility. Managers of such commercial body art facilities will also be required to pay an initial \$100 registration fee with their application form which will be followed by an annual renewal of \$75 each subsequent year of operation. Owners of commercial body artist training facilities will be required to complete an application form, pay a registration fee of \$1,500, pay an annual renewal fee of \$500, develop training courses and travel to sites around state to provide the required training. All fees as required were mandated by Act 393 of 1999.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition for trained body art operators can be expected initially but will level off as more operators become trained. Employment at commercial body art facilities will be restricted and limited to persons who are properly trained in the safe and sanitary application of tattoos and piercing.

Jimmy Guidry, M.D.  
Assistant Secretary  
9911#063

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**

**Durable Medical Equipment—Osteogenic  
Bone Growth Stimulators**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. 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 Service Financing currently provides coverage for durable medical equipment. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. Currently, the osteogenic bone growth stimulator, either electric or ultrasonic, is not covered under the Medicaid Program. Osteogenic bone growth stimulators are used to augment bone repair associated with either a healing fracture or bone fusion. However, prior authorization for osteogenic bone growth stimulators is considered for recipients under the age of 21 since Early Periodic Screening Diagnosis and Treatment (EPSDT) regulations require the provision of any medically necessary service for recipients under the age of 21. The Bureau proposes to extend Medicaid coverage under the Durable Medical Equipment Program to include osteogenic bone growth stimulators. Inclusion of this medical appliance in the list of covered services will ensure availability to recipients of all ages, subject to medical necessity review and prior authorization by the Prior Authorization unit.

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 coverage of osteogenic bone growth stimulators will improve the recuperation of individuals who have fractured or broken bones. Successful bone repair will restore mobility and have a positive impact on future productivity on the healing of fractured or fused bones.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands coverage under the Durable Medical Equipment Program to include osteogenic bone growth stimulators which are used

to augment bone repair associated with either a healing fracture or bone fusion. However, coverage shall be limited to reimbursement for electrical, non-invasive types of bone growth stimulators only. Medicaid will not provide reimbursement for ultrasonic or invasive types of bone growth stimulators.

The following criteria shall be used to determine medical necessity for an osteogenic bone growth stimulator.

**Non-Spinal Non-invasive Electrical**

Non-spinal non-invasive electrical bone growth stimulators may be considered under the following circumstances:

1. The failure of long bone fractures to heal. A period of six months from the initial date of treatment must elapse before failure is considered to have occurred;
2. The failure of long bone fusions period of nine months from the initial date of treatment must elapse before failure is considered to have occurred; or
3. The treatment of congenital pseudoarthroses. There is no minimal time requirement after the diagnosis.

**Spinal Non-invasive Electrical**

Spinal non-invasive electrical bone growth stimulators may be considered:

1. when a minimum of nine months has elapsed since the patient had fusion surgery which resulted in a failed spinal fusion; or
2. when there is a history of a previously failed spinal fusion at the same site following spinal fusion surgery (meaning more than nine months has elapsed since fusion surgery was performed at the same level which is being fused again). As long as nine months has passed since the failed fusion surgery, this repeated fusion attempt requires no minimum passage of time for the application of the device; or
3. following a multi-level spinal fusion (i.e. involving three or more contiguous vertebrae, such as L3-L5 of L4-S1). There is no minimum requirement for application after surgery.

Interested persons may submit written comments to the following address: Thomas D. Collins, 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 Tuesday, December 28, 1999 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, 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: Durable Medical Equipment Osteogenic  
Bone Growth Stimulators**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in increased expenditures in the Durable Medical Equipment Program for Osteogenic Bone Growth Stimulators by approximately \$1,117 for SFY 1999-2000, \$3,020 for SFY 2000-01, and \$3,111 for SFY 2001-02. Included in SFY 1999-00 is \$268 (\$134 SGF and \$134 FED) for the administrative expense of promulgating this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated effect on federal revenue collections is approximately \$2,463 for SFY 1999-00, \$7,210 for SFY 2000-01 and \$7,426 for SFY 2001-02.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule shall ensure the availability of osteogenic bone growth stimulators for rental or purchase to nine (9) Medicaid recipients who meet the criteria. The providers who supply these devices will be able to receive reimbursement. This proposed rule will result in an increase in reimbursements to providers of the Durable Medical Equipment Program of approximately \$3,312 for SFY 1999-2000, \$10,230 for SFY 2000-2001, and \$10,537 for SFY 2001-2002.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9911#023

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**

Home and Community-Based Services Waiver Program  
Habilitative/Supported Employment Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in July of 1990 to implement a Home and Community-Based Services waiver designed to meet the need of

developmentally disabled individuals by providing an array of residential and family support services in the community (*Louisiana Register*, Vol. 16, No. 7). In compliance with Section 1915(c)(5) of the Social Security Act, the July 1990 rule adopted a provision to furnish habilitation services only to those persons who had been deinstitutionalized from a Medicaid certified nursing facility or ICF/MR. Section 4743 of the Balanced Budget Act of 1997, Public Law 105-33, subsequently eliminated prior institutionalization as a requirement for receiving habilitation services furnished under a waiver for home or community-based services.

Effective July 23, 1999, the Bureau amended the July 1990 rule to remove the requirement that states, "To be eligible for Habilitative/Supported Employment services, the individual must have been deinstitutionalized from a SNF, ICF, or ICF/MR" (*Louisiana Register*, Volume 25, No. 8). Other qualifications for receipt of these services were not removed. Therefore, the Bureau proposes to adopt the following rule to continue the provisions of the July 23, 1999 emergency rule in force.

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 promote the independence of developmentally disabled individuals participating in the MR/DD waiver and enhance the stability of their families by allowing greater access to habilitative services.

#### **Proposed Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing amends the July 20, 1990 rule to remove the requirement that states, "To be eligible for Habilitative/ Supported Employment services, the individual must have been deinstitutionalized from a SNF, ICF, or ICF/MR."

All MR/DD waiver recipients who are in need of these services in order to prevent institutionalization may receive them. However, individuals receiving these services must continue to meet the requirement that:

- 1) either they are not eligible; or
- 2) they have been referred and rejected for participation in Section 110 of the Rehabilitation Act of 1973 or programs funded under P.L.94-142.

Interested persons may submit written comments to the following address: Thomas D. Collins, 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 Monday, November 29, 1999 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, 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: Home and Community-Based Services Waiver Program Habilitative/Supported Employment Services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Implementation of this proposed rule will result in additional costs to the MR/DD Waiver Program of approximately \$371,542 for SFY 1999-00, \$446,320 for SFY 2000-02, and \$529,320 for SFY 2001-02. Included in SFY 1999-00 is \$160 (\$80 SGF and \$80 FED) for the state's administrative expense of promulgating this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The estimated effect on federal revenue collections is approximately \$880,598 for SFY 1999-00, \$1,065,605 for SFY 2000-01, and \$1,263,770 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 afford approximately 700 MR/DD waiver recipients the opportunity to receive habilitative or supported employment services. This proposed rule will result in an increase in reimbursements to providers in the MR/DD Waiver Program of approximately \$1,251,980 for SFY 1999-00, \$1,511,925 for SFY 2000-01, and \$1,793,090 for SFY 2001-02.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9911#021

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**

#### **Medically Needy Program Service Coverage Restrictions**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) et seq. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on May 20, 1998 reinstating the Title XIX Medically Needy Program and establishing service coverage restrictions (*Louisiana Register*, Volume 24 No. 5).

Currently, dental services and dentures are non-covered services for Medically Needy recipients.

The Department has subsequently determined that it is necessary to amend the May 20, 1998 rule to remove the restriction on the coverage of dental services for EPSDT recipients who are certified for Medicaid in the Medically Needy category. 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 removing the restriction on the coverage of dental services for EPSDT recipients who are certified for Medicaid in the Medically Needy category will enhance access to EPSDT dental services by allowing parents to seek preventive and restorative dental treatment and oral hygiene instruction for their children. Unrestricted access to dental services will ultimately improve the dental and overall health of these children.

### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 20, 1998 rule to remove the restriction on coverage of dental services for EPSDT recipients who are certified for Medicaid under the Medically Needy category.

All other provisions of the May 20, 1998 rule governing the Title XIX Medically Needy Program shall remain in force.

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 proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, December 28, 1999 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, 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: Title XIX Medically Needy Program Service Coverage Restrictions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased expenditures in the Title XIX Medically Needy Program for EPSDT dental services by approximately \$7,713 for SFY 1999-2000, \$23,601 for SFY 2000-01, and \$24,308 for SFY 2001-02. Included in SFY 1999-00 is \$160 (\$80 SGF and \$80 FED) for the administrative expense 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 federal revenue collections for EPSDT dental services under the Title XIX Medically Needy Program

will increase by approximately \$18,175 for SFY 1999-00, \$56,347 for SFY 2000-01 and \$58,038 for SFY 2001-02.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 1,950 EPSDT recipients who are certified as Medically Needy will have access to dental services as a result of implementation of this proposed rule. This proposed rule will result in an increase in reimbursement to providers in the Title XIX Medically Needy Program of approximately \$25,728 for SFY 1999-00, \$79,948 for SFY 2000-01, and \$82,346 for SFY 2001-02.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9911#022

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Insurance Office of the Commissioner

#### Fraud Assessment (LAC 37:XI Chapter 23)

Under the authority of Louisiana Revised Statutes (La. R.S.) Title 40, Section 1428 and the Administrative Procedure Act, La. R.S. 49:950 et seq., the Department of Insurance gives notice that it intends to adopt the following proposed rule, to become effective February 20, 2000. This intended action complies with the statutory law administered by the Department of Insurance.

#### Title 37

#### INSURANCE

#### Part XI. Rules

#### Chapter 23. Rule 13—Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud

#### §2301. Purposes

A. The purpose of this rule is to implement the provisions of La. R.S. 40:1428 by assessing a fee on insurers to pay the cost of investigation, enforcement, and prosecution of insurance fraud in this state as more fully described in La. R.S. 40:1421-1429 and this rule. This rule shall be effective February 20, 2000.

B. The fees collected shall be used solely for the purposes of Subpart B of Part III of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of La. R.S. 40:1421 through 1429, entitled "Insurance Fraud Investigation Unit."

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

#### §2303. Fee Assessment

A. As authorized by La. R.S. 40:1428, and subject to the limitations provided therein and in this rule, there is hereby assessed an annual fee not to exceed .000375 multiplied times the direct premiums received by each insurer licensed by the Department of Insurance to conduct business in this state.

B. The fee shall be assessed for that portion of the 1999-2000 fiscal year, ending June 30, 2000, which follows the effective date of this rule, and on July 1, 2000, and each fiscal year thereafter, and shall be based on premiums received in the previous calendar year. The Commissioner of Insurance will notify insurers in writing of the fee assessment owed each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

#### **§2305. Limitations on the Fee Assessment**

The fee shall not be assessed on premiums received on life insurance policies, annuities, credit insurance, reinsurance contracts, reinsurance agreements, or reinsurance claims transactions. The fee shall not be assessed on fifty percent of the premiums received on health and accident insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

#### **§2307. Allocation of the Fee Assessment**

A. The fees shall be allocated as follows.

1. Seventy-five percent of the fees collected shall be allocated to the Insurance Fraud Investigation Unit within the Office of State Police.

2. Fifteen percent of the fees collected shall be allocated to the Department of Justice to be used solely for the Insurance Fraud Support Unit.

3. Ten percent of the fees collected shall be allocated to the Department of Insurance to be used solely for the Section of Insurance Fraud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

#### **§2309. Payment of the Fee Assessment**

The fee established in La. R.S. 40:1428 and in this rule shall be paid to the Commissioner of Insurance as required by La. R.S. 40:1428(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

#### **§2311. Sunset**

This rule shall be null, void, and unenforceable on July 1, 2004 in accordance with the sunset provision of La. R.S. 40:1429, unless legislative authorization for this rule is reenacted prior to July 1, 2004. If such legislation authorization is reenacted prior to July 1, 2004, then this Rule shall continue in full force in effect without need for a reenactment, amendment, or re-promulgation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 40:1428 and R.S. 40:1429.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

A public hearing on this proposed rule will be held on December 27, 1999, in the Plaza Hearing Room of the Insurance Building located 950 N. Fifth Street, Baton Rouge, Louisiana, at 10:00 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed rule from, and may submit oral or written comments to Barry W. Karns, Deputy General Counsel, Department of Insurance, P.O. Box 94214, Baton Rouge, Louisiana 70804-9214, telephone (225) 342-9217. Comments will be accepted through the close of business at 4:30 p.m. December 27, 1999.

#### **Family Impact Statement**

1. The Effect of the Proposed Rule on the Stability of the Family. The proposed rule should have no measurable impact on the stability of the family. Elimination of instances of insurance fraud should eventually have a positive effect on insurance rates and availability of affordable insurance in the state for individuals, families and businesses, and therefore aid in the stability of the state's economy.

2. The Effect of the Proposed Rule on the Authority and Rights of Parents regarding the Education and Supervision of Their Children. The proposed rule should have no impact upon the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of the Proposed Rule on the Functioning of the Family. The proposed rule should have no direct impact on the functioning of the family, except that elimination of instances of insurance fraud should eventually have a positive effect on insurance rates and the availability of affordable insurance for individuals, families and businesses and therefore aid in the stability of the state's economy.

4. The Effect of the Proposed Rule on Family Earnings and Family Budget. The proposed rule should have no direct impact upon family earnings and budget in the short term; however, the elimination of instances of insurance fraud should eventually have a positive effect on insurance rates and the availability of affordable insurance for individuals, families and businesses and therefore aid in the stability of the state's economy.

5. The Effect of the Proposed Rule on the Behavior and Personal Responsibility of Children. The proposed rule should have no impact upon the behavior and personal responsibility of children.

6. The Effect of the Proposed Rule on the Ability of the Family and a Local Government to perform the Function as Contained in the Proposed Rule. The proposed rule should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Cheri Bowman  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rule 13—Special Assessment to Pay the Cost of Investigation, Enforcement and Prosecution of Insurance Fraud**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs associated the promulgation of this rule by DOI total \$19,869 for the first assessment—last six

TITLE 43

NATURAL RESOURCES

Part V. Office of Mineral Resources

Chapter 1. Geophysical and Geological Surveys

§101. Geophysical and Geological Surveys

A. Permits for geophysical and geological surveys under Title 30, Chapter 3, Sections 211 through 216 of the Louisiana Revised Statutes of 1950 shall be obtained from the State Mineral Board through the Office of Mineral Resources. Applications for a permit for such exploration must be filed in quadruplicate with one copy addressed to the Secretary of the Department of Natural Resources and three copies addressed to the Deputy Assistant Secretary of the Office of Mineral Resources at least ten (10) days before the requested effective date of the permit and each such copy must be accompanied by supporting documents as follows.

1. If the permittee is a shooting company, i.e., a company whose primary business enterprise is the physical, "on-ground" acquisition of seismic and geophysical data and the transferral of said acquired data, in either raw or processed form, exclusively to one or more cost underwriting parties or by sale or licensing agreements on the open market, it shall give the name of the client(s) for whom the seismic is being shot under the permit or, if a speculative shoot, a statement to that effect. If permittee is not a shooting company, it shall give the name of the shooting company which will do the physical, "on-ground" acquisition of the seismic or geophysical data under the permit, including current mailing address and telephone number.

2. A statement of the type of work planned, such as gravity meter, magnetometer, reflection, refraction, 2-D, 3-D and/or any other recognized methods of acquiring seismic, geophysical or geological data. It is required that the official permit application available on request from the Office of Mineral Resources be used.

B. No permit issued hereunder shall cover, nor shall any project for which the permit is secured include, acreage covered by a valid state mineral lease in full force and effect at the time the permit is secured. However, if the permit applicant secures the appropriate consent from the state mineral Lessee to conduct the type of seismic operations contemplated under the permit application over the state mineral lease acreage included within the prospective project area, the permittee shall have the right under the applied for permit to conduct the type of seismic operations set forth in the permit application over the state mineral lease acreage without the necessity of securing an addendum thereto or an additional permit. Upon the expiration, lapse, or termination of any state mineral leases, the acreage of which falls within a project area delineated in a seismic permit issued hereunder, during the term in which the said seismic permit is in full force and effect, the respective permit for the project area which includes the expired, lapsed, or terminated state mineral lease acreage shall be deemed to cover, and the project area to include, said acreage without the necessity of any further permission from the State Mineral Board, and the seismic operations contemplated under the said permit may be conducted upon such acreage, but only for such time as the permit term remains in force and effect, and no longer. Permits are limited to a period of one year from date of issuance, unless revoked for cause.

months of FY 1999-2000. These costs will be absorbed by DOI.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collection by the Department of Insurance will increase by an estimated \$1,123,279.68 in the last six months of fiscal year 1999/2000, when DOI will collect 6 months of assessment. Example—one-half of the product of subject premiums multiplied by 0.000375. For fiscal years beginning July 1, 2000 and thereafter, the fee assessment shall be based on premiums received in the previous calendar year; the fee assessment factor may be reduced, if appropriate, as set forth in LRS 40:1428. The commissioner of insurance will notify insurers in writing of the fee assessment owed for each fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Insurance consumers and the insurance industry will benefit from any drop in insurance fraud, but it is not possible for DOI to estimate the amount of the benefit to either group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that this rule would have any effect on employment or competition.

Craig S. Johnson                      Robert E. Hosse  
Deputy Commissioner              General Government Section Director  
Management & Finance              Legislative Fiscal Officer  
9911#011

NOTICE OF INTENT

Department of Natural Resources  
Office of Mineral Resources

Geophysical and Geological Surveys; Operating  
Agreements; and Fees and Other Charges  
(LAC 43:V.Chapters 1-3)

The Office of Mineral Resources, Department of Natural Resources, pursuant to R.S. 49:950, et seq., proposes to amend LAC 43, Part V. The proposed rule change adds additional fees and charges to the fee schedule of the Office of Mineral Resources which historically have been and presently are being collected and recognized by the Legislative Fiscal Office as self-generated funds for said Office. Said fees and charges will add no new fees or charges to be collected from industry or the public, but the addition to the fee schedule merely recognizes said fees and charges which have been and are being presently collected from industry and the public as self-generated: a view historically held by the Legislative Fiscal office. The Assistant Secretary for the Office of Mineral Resources will consider comments and public input for a period of thirty-five (35) days following publication.

The proposed addition of fees and charges to the schedule represent fees and charges already being collected and recognized by the Legislative Fiscal Office as self-generated funds.

In accordance with R.S. 49:950 et seq., the Department of Natural Resources, Office of Mineral Resources, has amended LAC 43:I, Part V, Chapter I as follows.



C. In order to accommodate proper administration of seismic permits issued hereunder and orderly operations conducted under said permits, the applicant shall submit to the Office of Mineral Resources ("OMR") notice of the date of commencement of any seismic operations authorized by the permit, a plat acceptable to the Staff of the OMR reasonably identifying and locating each particular grid area in which operations are to be conducted and, after completion of field operations under the permit, a supplemental plat showing details of any work done in addition to that set forth in the permit application; which plat shall reflect the locations of the lines or grids shot, all shot point and/or geophone locations, and the date of completion of said additional work. The permittee, may, but shall not be required to, voluntarily agree to make available to OMR, at permittee's or OMR's office at permittee's option, the fully migrated and processed data derived from the seismic project under the issued permit. All such plats and data secured by OMR shall be deemed confidential and not subject to the public records doctrine; but shall be for the use of OMR staff only. For purposes of this section, date of commencement of operations is defined as the date upon which surveying crews and equipment are moved into the area to be worked for purposes of preliminary line placement surveying prior to the beginning of acquisition of data.

D. A permit to conduct seismic, geophysical and/or geological surveying of any kind upon State of Louisiana lands or water bottoms over which the State Mineral Board through OMR has jurisdiction shall be subject to the following terms.

1. The permit shall be valid for a period of one (1) year from date of issuance.

2. The permit shall be valid for the entire State of Louisiana, but the exercise of operations under the permit shall be limited only to the project area set forth in the application.

3. Any and all rights exercised under a valid seismic permit issued hereunder shall be exclusive only to the named permittee or, if the permittee is not a shooting company, the shooting company named in the permit application as the entity to actually do the physical, "on ground" seismic project.

4. No permit issued hereunder shall be transferable and shall be specific as to the party securing the permit, the party for whom the permitted work is being done, the project-including location plat, written description, and total acreage of state owned land and/or water bottom in the project area-covered by the permit, and the date of commencement of the permitted activity.

5. The permittee shall pay to OMR at the time of application for the seismic permit-by official bank check, certified funds, bank money order, or other certifiable funding method made payable to "Office of Mineral Resources"- an amount of money equal to \$200 per mile for 2-D lines, \$2.00 per acre multiplied by the total number of state owned lands and/or water bottoms located within the seismic project area as set forth in the application for other than 2-D or \$1,000, whichever is greater. The OMR staff reserves the right to verify the total length to the nearest mile of the proposed 2-D seismic lines or the total amount of state owned lands and/or water bottoms within the project area and, if necessary, require additional funds from the permittee

if the verified length or acreage exceeds the length or acreage set forth in the application.

E. Violation by the permittee of any of the terms specified in this schedule as promulgated, or which may be written on the permit form, shall be deemed to be a permit violation by OMR which may, at the sole discretion of OMR, subject permittee to the cancellation of his permit and forfeiture of his permit fee.

F. Pursuant to R.S. 30:124 any and all rights exercised by any permittee pursuant to a permit issued hereunder shall be in compliance with any and all applicable rules and regulations which have been promulgated, and which may be further promulgated from time to time, by the Department of Wildlife and Fisheries governing the conduct of seismic exploration on land and/or water for the protection of oysters, fish, and wildlife. Further, all wildlife and waterfowl refuges, game and fish preserves, or oyster seed ground reservations, the mineral rights over which the Department of Wildlife and Fisheries exercises direct control, shall not be included in any project area covered by any permit issued hereunder unless written permission is secured from said agency.

G. The approval of the State Mineral Board, through its duly authorized officer, of any permit, is granted subject to any future rules which may be adopted by the State Mineral Board from time to time. The Board hereby declares that in the event any changes in the rules are effected, thirty (30) days written notice shall be given to all permittees whose permits are still in effect.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:

### **§103. Exclusive Geophysical Agreements**

A. Exclusive geophysical agreements authorized under Title 30, Chapter 3, Section 208 through 209.1 of the Louisiana Revised Statutes of 1950 may be obtained from the State Mineral Board, through the Office of Mineral Resources.

B. There are three types of exclusive geophysical agreements which may be secured from the Office of Mineral Resources, namely: Exclusive Geophysical Agreement Type I, Exclusive Geophysical Agreement Type II, and Exclusive Geophysical Agreement Type III. The following shall apply to all exclusive geophysical agreements secured hereunder.

1. The area to be covered by the exclusive geophysical agreement shall be nominated just as a lease with the description set forth in X/Y Lambert coordinates.

2. The exclusive geophysical agreements are to be awarded by public bid, just as leases are, at the monthly Mineral Lease Sale.

3. The OMR staff will determine the minimum per acre seismic fee which must be bid to be acceptable to the State Mineral Board for the awarding of the exclusive geophysical agreement.

4. The nominated acreage will then be advertised on the same delay basis and in the same manner as lease nominations; which advertisement will state a property description of the geographical area over which the

exclusive geophysical agreement is to be awarded, the type of exclusive geophysical agreement sought and the minimum per acre seismic fee acceptable to the State Mineral Board as a bid, and the day, date, time, place of the next State Mineral Lease Sale at which bids will be accepted

5. The term of the exclusive geophysical agreement shall be eighteen (18) months with an option for an additional six (6) months, which option period shall be granted only upon written request by the bid winner made prior to the end of the original eighteen (18) month term and upon payment to the Office of Mineral Resources in the manner set forth as acceptable herein above of a sum of money equal to one-half (1/2) of the original total fee bid and paid for the seismic agreement.

6. The exclusive geophysical agreement awarded shall be subject to, and shall not supersede, any existing seismic permits, leases, or other agreements of any kind with the State of Louisiana in the nominated area at the time awarded.

7. The Office of Mineral Resources will get copies (hard copies and digital tapes) of all fully processed and migrated 3-D seismic data and any other geophysical and geological data, including, but not limited to, 2-D seismic, gravity (air or surface), and magnetic (air or surface) acquired under the exclusive geophysical agreement. The Staff of the Office of Mineral Resources will be provided access to the seismic data, both processed and interpreted, at the facilities of the entity conducting the seismic operations under the exclusive geophysical agreement awarded during all phases of the seismic operations with interpreted data to be accessed no later than one (1) year following the end of the primary term of the exclusive geophysical agreement, or the option term if activated.

8. The exclusive geophysical agreement shall be available for the primary purpose of conducting 3-D seismic operations only, although other types of geophysical data may be acquired in addition to 3-D seismic, unless otherwise agreed upon by the Office of Mineral Resources and the nominating party.

C. In addition to §103.B above, the following shall apply to the Exclusive Geophysical Agreement Type I:

1. The State Mineral Board shall not grant any new seismic agreements or permits in the nominated area during the initial term of the exclusive geophysical agreement, or the option term if activated, but does reserve the right to accept nominations for and grant new mineral leases within the nominated area of the exclusive geophysical agreement. Any new mineral leases granted within the nominated area of the exclusive geophysical agreement during its primary term, or option term if activated, shall be subject to the rights granted under the exclusive geophysical agreement and the grantee shall not be required to deal with the state mineral Lessee in order to conduct seismic operations over the new lease acreage.

D. In addition to §103.B above, the following shall apply to the Exclusive Geophysical Agreement Type II.

1. The State Mineral Board shall not grant any new seismic agreements or permits, or any new leases in the exclusive geophysical agreement area from the time it is nominated, during the initial term of the exclusive geophysical agreement, or the option term if activated. However, a buffer zone of one-half (1/2) mile will be

established around existing leases within the area of the exclusive geophysical agreement and only the lessee of the existing lease or the successful exclusive geophysical agreement grantee shall have the right to nominate acreage for a state mineral lease within that buffer zone during the initial term of the exclusive geophysical agreement, or the option term if activated, which will then go up for public bid and the regular monthly state mineral lease sale.

2. The exclusive geophysical agreement grantee only shall have the right to nominate acreage within the exclusive geophysical agreement area for a state mineral lease during the primary term of the exclusive geophysical agreement, or the option term if activated, except as to the buffer zone around existing leases as provided for in 9. above, which lease nominations shall not exceed fifteen hundred (1500) acres each and shall not in aggregate amount exceed one-third (1/3) of the entire acreage of the exclusive geophysical agreement.

E. In addition to §103.B and D above, the following shall apply to the Exclusive Geophysical Agreement Type III.

1. The Staff of the Office of Mineral Resources shall, after examination of the area nominated for the Exclusive Geophysical Agreement Type III, set a minimum royalty and bonus price per acre which would be acceptable by the State Mineral Board for a state mineral lease granted within that nominated area, which minimums shall be advertised within the advertisement for the nominated area.

2. The exclusive geophysical agreement grantee only shall have the right, within the initial term of the exclusive geophysical agreement, or the option term if activated, to select for mineral leases tracts within the exclusive geophysical agreement area, not to exceed fifteen hundred (1500) acres each or one-third (1/3) in the aggregate of the entire acreage of the exclusive geophysical agreement area, and, upon payment to the Office of Mineral Resources of the amount of the per acre bonus as advertised and bid during the acquisition of the exclusive geophysical agreement type III multiplied times the acreage for each tract selected, plus an additional ten (10%) administration fee, and have a state mineral lease issued by the Office of Mineral Resources on each selected tract which shall carry the royalty burden advertised and bid during the acquisition of the exclusive geophysical agreement.

F. The State Mineral Board, through the Office of Mineral Resources, agrees to hold all information, maps, data of any and all kinds provided to the state under R.S. 30:213 or as a result of the terms of the exclusive geophysical agreements confidential and same shall not be available for view or use except by certain members of the staff of the Office of Mineral Resources in connection with the administration of state owned lands and water bottoms, and the state mineral leases thereon unless ordered by a court of proper jurisdiction to do so. Said information shall be kept under lock and key, except during the course of actual examination by the staff of the Office of Mineral Resources. Any violation of these requirements is hereby declared cause for peremptory removal from office or discharge from employment in addition to the penalties provided under R. S. 30:216.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S.

30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:

## **Chapter 2. Operating Agreements Upon Relating to State-Owned Lands and Water Bottoms**

### **§201. Operating Agreements**

A. Operating agreements under Title 30, Chapter 3, Sections 208 through 209.1 of the Louisiana Revised Statutes of 1950 may be obtained from the State Mineral Board through the Office of Mineral Resources.

B. An operating agreement, as that term is used herein, shall refer to the contractual agreement by and between the State of Louisiana and an operator, under limited conditions and circumstances, and in lieu of a state mineral lease, to reestablish or attempt to establish production of liquid or gaseous hydrocarbons from an existing well, or wells, located on state owned lands or water bottoms previously leased, but on which the lease has terminated, by reworking, deepening, sidetracking, or plugging back of said well(s) when it has been determined by the State Mineral Board that, due to equity, economics, and other factors, it is in the best interest of the State to assume a portion of the risk of establishing production in said existing wells by contracting with the operator to attempt said establishing of production on behalf of the State whereby the State shall be entitled to receive a graduated share of production, or its value, based on recoupment of the risked cost as monitored by the Office of Mineral Resources in administering the operating agreement.

C. Operating agreements shall only be granted by the State Mineral Board in those limited situations set forth and illustrated by R.S. 30:209 (4)(a)(i-iv) when it has been determined that the best interest of the State of Louisiana will not be served by the granting of a regular state mineral lease.

D. Pursuant to R.S. 30:124 all permits will be issued subject to strict compliance by the permittee with all applicable rules governing the conduct of seismic exploration in water areas as such rules may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife. Further all wildlife and waterfowl refuges, game and fish preserves, or oyster see ground reservations or any part thereof, shall not be deemed to be included in the area covered by any permit unless written permission from the agency in charge of such refuge, preserve, or reservation is also secured.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:

## **Chapter 3. Fees and Other Charges**

### **§301. Fees and Other Charges**

A. The Department of Natural Resources, pursuant to the authority of Act 13 of the 1988 First Extraordinary Session of the Louisiana Legislature authorizing fees and other charges as self-generated funds, has adopted the following fees and charges commensurate with costs incurred in the application for and administration of state oil, gas or mineral

leases, geophysical and geological permits and agreements, and operating agreements on state-owned lands and water bottoms. Fees.

1. Fee for new mineral leases equal to ten percent (10%) of cash payment to be submitted no later than ten (10) days after acceptance of bid and awarding of lease.

2. Fee of \$100 for processing docketed items, such as assignments, not including advertised docketed items.

3. Fee of \$500 for processing advertised docketed items, such as unitization agreements.

4. \$200 per mile for 2-D lines, \$2.00 per acre times the total number of state owned acres included in the seismic project for other than 2-D seismic, or \$1000, whichever is greater, for the issuance of a seismic permit.

5. Fee of the price per acre bid times the total number of state owned acres included in the seismic project for the granting and cost of administering an exclusive geophysical agreement.

6. Fee covering the cost of administering operating agreements authorized by statute on a cost risk basis which would equal to twenty-five percent (25%) of the value (as determined by the sale of said production) of that portion of production returned to the State under the said operating agreements.

7. A fee of \$35.00 per hour for the number of staff hours required to process and verify requests from payers of royalties seeking reimbursements of overpayments of royalties.

8. Fee of one dollar per page for all items faxed by the Office of Mineral Resources upon request by the public to cover actual cost of faxing the material.

9. Fee of twenty-five cents per page copied or printed by the Office of Mineral Resources upon request by the public to cover the actual cost of copying the material

10. Fee of \$120.00 per subscription for a person or entity, upon request, to receive, in advance of the sale, the monthly mineral notice book of tracts coming up each month for lease sale for a period of one year which covers the cost of compiling, binding and postage incurred by the Office of Mineral Resources.

11. Fee of one dollar per page for certification that document copies requested by and furnished to the public are true and correct copies of the original documents located at the Office of Mineral Resources.

12. Fee for the administration of an in-kind royalty program, authorized by statute, although not collected last year due to the absence of an in-kind royalty program, which could amount to more than \$1,000,000.00 if the program were implemented.

13. A base non-refundable fee of \$200.00 per nomination to cover the cost of advertising; which fee shall be increased by the actual cost of advertisement per nomination, if any, and said increase levied and collected from the nominating party prior to the lease sale at which the tract appears for bid.

14. Fee for copies of G5 maps which amount to \$10.00 for copies pertaining to area north of the thirty-first parallel (Township 1 North and above) and \$20.00 for copies pertaining to area south of the thirty-first parallel (Township 1 South and below).

15. Fee of \$20.00 charged for furnishing upon request a proof of publication for tracts advertised for lease sale.

16. Fee of \$5.00 each for furnishing upon request proofs of execution of leases, no conflict or overlap of tracts and that tract is within the three mile line.

Other Charges:

17. Penalty charge of \$100.00 per day up to a maximum of \$1000.00 as statutorily imposed for assignments filed with the Office of Mineral Resources beyond a statutorily established time from the execution of the assignment to cover the cost of tracking, notifying assignor of and collecting said penalty.

18. For incorrectly filling out any form required by the Department of Natural Resources or the Office of Mineral Resources which accompanies the payment of any sum of money due the state, other than lease bonus, rental, or shut-in payments, unless the incorrectly filled out portion is corrected before the due date of the payment, a statutory penalty charge of five percent (5%) of the sum due, up to a maximum of \$500.00 to cover the cost of having the corrections made after the fact.

19. For late payment of any sums due, other than bonus, rental, or shut-in payments, a statutory penalty charge of ten (10%) of the sum due up to a maximum of \$1000.00 to cover the cost of collecting the correct amount

20. Penalty charge of \$100.00 per day for every day beyond ninety (90) days from lease termination until a release of the terminated lease is recorded in all parishes in which the original lease was recorded.

21. Any liquidated damages specified as such in any contract by and between the State of Louisiana, through the staff of the State Mineral Board, the Office of Mineral Resources, including, but not limited to, leases, operating agreements, and unit agreements, and any person or business entity, the purpose of which is to facilitate the exploration and drilling for, and the establishment of production of any mineral from state owned land and water bottoms which shall, between the contracting parties, reflect the agreed upon amount of damage, including cost of recovery, incurred by the State for violation of the agreement.

22. Charge for production of gaseous or liquid hydrocarbons from unleased state acreage in the nature of damages for trespass, amounting to payment to the state of all revenue from sale of production allocated to the state acreage less the state's actual, reasonable allocated share of costs for drilling and production, as reimbursement for the cost of finding, tracking, compiling and collecting said damages.

23. Kinds and anticipated amounts of costs are:

Personal services	\$ 3,413,308.00
Operating expenses	613,155.00
Professional services	1,020,000.00
Other charges	7,672,888.00
Equipment	4,889.00
<b>Total</b>	<b>\$12,724,240.00</b>

24. This schedule of fees and charges, as amended, shall be re-promulgated, and the provisions hereof shall be in full force and effect, as of January 1, 2000 and shall continue in force until canceled by the Office of Mineral Resources, any other order by a duly authorized person or entity, or by order of a court of law of proper venue and authority.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session, 1988, R.S. 30:136(A)(2) and 30:142(A), as amended by Acts 1017 and 1018 of 1990, R.S. 30:209 and 209.1, as amended by acts 530 and 531 of 1997, and R.S. 30:211 through 216.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 26:

Robert D. Harper  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE:**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No additional implementation costs over the present budgeted costs are anticipated because the Office of Mineral Resources has historically and is presently collecting all of the fees and charges within the proposed rule change. The changes are necessary to officially designate as self-generated those funds collected by the Office of Mineral Resources so such funds can be used to defray the ongoing costs of administering new operating agreements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

If the rule change is approved the Mineral Board and its staff will have sufficient funds to grant the new type of Operating Agreement, which requires much higher maintenance and administrative costs than the old type of Operating Agreement. Production payments to the State from those new type Operating Agreements, which are unlikely to be granted without the rule change, are estimated to be about \$1,600,000 based on \$836,000 in revenue generated by six (6) of the new type of Operating Agreements which have already been granted. Based on this estimate, \$1,200,000 of additional revenue should be generated for the State general fund and \$400,000 in self-generated revenue should be generated for the Office of Mineral Resources.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be economic benefit estimated to be in excess of \$4,800,000 to those companies in the oil and gas industry which are granted the new type of Operating Agreement because the marginally productive areas over which operating agreements are granted are not economically suited to the competitive bidding format of regular leasing. The hydrocarbon reserves which are the objective of companies in these marginal areas are not sufficiently large to support competitive bidding in that the money which would be competitively bid to secure the lease is required to re-establish production and the estimated recovery is usually only sufficient to reimburse costs plus a very small margin of profit. The rule change allows the Office of Mineral Resources to keep 25 percent of production payments to the State from the new Operating Agreements, thereby providing sufficient funding for the Mineral Board and its staff to continue to grant the new Operating Agreements when they are unlikely to do so otherwise due to the high maintenance cost. Thus, this rule change is economically beneficial to the oil and gas industry in that they are allowed to secure production, and the marginal profit therefrom, which they might not otherwise secure under the competitive bid situation of the regular lease sale. The economic benefit to the companies is estimated in the following manner:

\$836,000 in production payment received by the State on six (6) existing new Operating Agreements at an average 25 percent production payment to the State on each Operating

Agreement leaves the Operators of the Operating Agreements receiving an average 75 percent of the sales of production, or 3 times what the State receives [\$836,000 x 3 = \$2,508,000 is Operator's share of sales of production]. Estimates are that the rule change will almost double the number of new Operating Agreements given by the State Mineral Board. Our conservative estimate is that the Operators will make approximately \$4,800,000 from sale of production if the rule change is made and the new Operating Agreements are granted.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment due to the fact that the fees and charges added to the proposed rule change have historically been and are presently being collected by the Office of Mineral Resources as a result of granting and administering mineral leases and operating agreements and related services on lands and water bottoms belonging to the State of Louisiana; which granting and administering can only be done by the State Mineral Board, through the Office of Mineral Resources, as the statutorily designated staff of the State Mineral Board.

Gus Rudemacher  
Assistant Secretary  
9911#032

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Officer

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Corrections Services

##### Medical Reimbursement Plan (LAC 22:I.Chapter 21)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and in order to implement R.S. 15:831(B)(1), the Department of Public Safety and Corrections, Corrections Services, hereby adopts regulations for the medical reimbursement plan.

Adoption of this amendment will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendment.

#### Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

##### Part I. Corrections

#### Chapter 21. Medical Reimbursement Plan §2101. Policy

Policy—to institute the Secretary's policy that medical co-payments must comply with the provisions of La. R.S. 15:831(B)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:

#### §2103. Applicability

Applicability—deputy secretary, undersecretary, assistant secretary/office of adult services, wardens of adult institutions, and administrators of adult local jail facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:

#### §2105. Medical Reimbursement Plan Pursuant To R.S. 15:831(B)(1)

##### A. Inmates Housed in State Institutions

1. Procedures concerning medical co-payments are outlined in Department Regulation No. B-06-001. "Health Care." Please see the section entitled "Provisions of Medical and Dental Services."

2. Inmates shall file a claim with a private medical or health care insurer, (or any public medical assistance program under which the inmate is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment.

##### B. Inmates Housed in Local Jail Facilities

1. If a facility has a medical reimbursement plan for non-state inmates approved as stipulated in La. R.S. 15:705(C), then such a plan is acceptable for use in obtaining reimbursement or co-payments from state inmates in the custody of the facility for medical expenses incurred. The application of the rules in said plan shall be identical for state and non-state inmates that may be housed in the facility. The plan must contain language that stipulates that no inmate will be denied medical care because of their ability to pay co-payments or make reimbursement. No further approval by the Department of Public Safety and Corrections shall be deemed necessary.

2. The facility should require that the inmate file a claim with a private medical or health care insurer, (or any public medical assistance program under which he is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services (November 1999), LR 26:

Richard L. Stalder  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medical Reimbursement Plan

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be some savings to the state resulting from medical reimbursements paid to qualifying inmates in state and local institutions for state provided treatment. However, it is estimated that the number of state inmates so qualified is very small compared to the total population and it is not possible to calculate those savings with any certainty.

##### 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)

There are no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There is no anticipated impact on competition and employment.

Robert B. Barbor  
Executive Counsel  
9911#012

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

**Sex Offender Treatment Plan and Program  
(LAC 22:I.337)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and in order to implement R.S. 15:538(C), the Department of Public Safety and Corrections, Corrections Services hereby amends regulations for sex offender treatment plans and programs.

Adoption of this amendment will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendment.

**Title 22  
CORRECTIONS, CRIMINAL JUSTICE  
AND LAW ENFORCEMENT  
Part I. Corrections**

**Chapter 3. Adult and Juvenile Services  
Subchapter A. General**

**§337. Sex Offender Treatment Plan and Program**

A. Policy—to institute the secretary's policy and procedures for providing a sex offender treatment plan and program as set forth pursuant to the laws of this state.

B. Applicability—assistant secretary/Office of Adult Services, director of probation and parole, Board of Parole, all wardens of adult institutions, and local facility administrators.

C. Sex Offender Treatment Plan Pursuant to R.S. 15:538(C)

1. No sexual offender whose offense involved a minor child who is 12 years old or younger or who is convicted two or more times of a violation of the following shall be eligible for probation, parole or suspension of sentence, or diminution of sentence if imposed as a condition by the sentencing court pursuant to R.S. 15:537, unless, as a condition thereof, the offender undergoes a treatment plan based upon a mental health evaluation:

- a. R.S. 14:42 aggravated rape;
- b. R.S. 14:42.1 forcible rape;
- c. R.S. 14:43 simple rape;
- d. R.S. 14:43.1 sexual battery;
- e. R.S. 14:43.2 aggravated sexual battery;
- f. R.S. 14:43.3 oral sexual battery;
- g. R.S. 14:43.4 aggravated oral sexual battery;
- h. R.S. 14:78 incest;
- i. R.S. 14:78.1 aggravated incest; or

j. R.S. 14:89.1 aggravated crime against nature.

2. Mental health evaluation means an examination by a qualified mental health professional with experience in treating sex offenders. Each institution and the Division of Probation and Parole shall make arrangements with qualified mental health professionals for the purpose of conducting evaluations and to develop and implement treatment plans.

3. The treatment plan shall be based upon a mental health evaluation and shall effectively deter recidivist sexual offenses by the offender, thereby reducing the risk of reincarceration of the offender and increasing the safety of the public, and under which the offender may reenter society.

4. The treatment plan may include:

a. the utilization of medroxyprogesterone acetate treatment or its chemical equivalent as a preferred method of treatment;

b. a component of defined behavioral intervention if the evaluating qualified mental health professional determines that such is appropriate for the offender.

5. The provisions of R.S. 15:538(C) shall only apply if parole, probation or suspension of sentence, or conditioned diminution of sentence is permitted by law and the offender is otherwise eligible.

6. If on probation or subject to a sentence that has been suspended, the offender shall begin medroxyprogesterone acetate, or chemical equivalent treatment as ordered by the court or a qualified mental health professional and medical staff.

7. If medroxyprogesterone acetate or chemical equivalent treatment is part of an incarcerated inmate's treatment plan, the inmate shall begin such treatment at least six weeks prior to release on parole.

8. Once a treatment plan is initiated based upon a mental health evaluation, it shall continue unless it is determined by a physician or qualified mental health professional that it is no longer necessary. The attending physician or qualified mental health professional may seek a second opinion.

9. If an offender voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, he shall not be subject to these provisions.

10. Before beginning medroxyprogesterone acetate or chemical equivalent therapy, the offender shall be informed about the uses and side effects of medroxyprogesterone therapy, and shall acknowledge in writing that he has received this information (see §337.F).

11. The offender shall be responsible for the costs of the evaluation, the treatment plan, and the treatment.

a. If the offender is not indigent, these services will be rendered by an outside mental health provider based upon a fee schedule established by the Department of Public Safety and Corrections. If the offender is on probation or under parole supervision, services will be rendered at the provider's place of business. If the offender is housed in an institution, services will be rendered by the provider at the state or local facility. In either event, the Department reserves the right to determine the eligibility within the Department of Health and Hospitals.

b. Indigent offenders who are on probation or under parole supervision will be responsible for seeking services through the Department of Health and Hospitals, Office of

Mental Health (with assistance as needed from their probation and parole officer). The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals. If the offender is housed in a state institution, services will be provided by Department of Public Safety and Corrections' mental health staff. A set-up fee will be charged to the inmate based upon the fee scale for non-indigent inmates and the inmate's account shall reflect the cost of the service as a debt owed. Indigent offenders housed in local facilities requiring these services should be transferred, if possible, to ARDC/WRDC. In unusual circumstances when this is not possible, services for these offenders shall be coordinated by the facility administrator with the Department of Health and Hospitals, Office of Mental Health (with assistance, as needed, of the Office of Adult Services or the Basic Jail Guidelines Regional Team Leader.) The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals.

12. Chemical treatment shall be administered through a licensed medical practitioner. Any physician or qualified mental health professional who acts in good faith in compliance with this regulation in the administration of treatment shall be immune from civil or criminal liability for his actions in connection with the treatment. The inmate may decline to participate in the evaluation or treatment plan by signing the Consent for Medroxyprogesterone Acetate Treatment indicating that he acknowledges his decision renders him ineligible for probation, parole, suspension of sentence or diminution of sentence if conditioned by the court. However, the inmate may still fall under the provisions of R.S. 15:828 or C.Cr.P.Art. 895(J).

13. Failure to continue or complete treatment shall be grounds for revocation of probation, parole, or suspension of sentence, or, if so conditioned by the Court, revocation of release on diminution of sentence as if on parole. Good time earned may be forfeited pursuant to R.S. 15:571.4. Should an inmate in an institutional setting fail to continue or complete his sex offender treatment plan, an Incident Report shall be initiated and good time forfeited, if appropriate, pursuant to the provisions of the *Disciplinary Rules and Procedures for Adult Inmates*.

14. During the preclass verification process, it will be the responsibility of staff at ARDC/WRDC to identify those inmates whose sentence places them under the provisions of R.S. 15:538(C). It is preferable that state inmates in this category be transferred from local facilities to ARDC/WRDC. Staff at ARDC/WRDC shall be responsible for assuring the transport of these inmates to the department's custody. However, if this is not done, then the Office of Adult Services or the Basic Jail Guidelines Regional Team Leader shall assist the local facility with any questions or concerns regarding the provisions of R.S. 15:538(C). If an inmate assigned to an institution should receive a new sentence for an identified sex offense, it will be the responsibility of the warden to determine if they are subject to the conditions of R.S. 15:538(C).

15. The director of the Division of Probation and Parole and all wardens shall establish procedures to implement the policy provisions of this regulation to ensure strict adherence to the procedures outlined herein.

#### D. Sex Offender Treatment Program Pursuant to R.S. 15:828

1. Sex offenders for the purpose of this statute are defined as persons committed to the custody of the Department of Public Safety and Corrections, for any of the following crimes:

- a. R.S. 14:41 rape;
- b. R.S. 14:42 aggravated rape;
- c. R.S. 14: 42.1 forcible rape;
- d. R.S. 14:43 simple rape;
- e. R.S. 14:43.1 sexual battery;
- f. R.S. 14:43.2 aggravated sexual battery;
- g. R.S. 14:43.3 oral sexual battery;
- h. R.S. 14:43.4 aggravated oral sexual battery;
- i. R.S. 14:43.5 intentional exposure of aids virus;
- j. R.S. 14:76 bigamy;
- k. R.S. 14:77 abetting in bigamy;
- l. R.S. 14:78 incest;
- m. R.S. 14:78.1 aggravated incest;
- n. R.S. 14:80 carnal knowledge of a juvenile;
- o. R.S. 14:81 indecent behavior with juveniles;
- p. R.S. 14:81.1 pornography involving juveniles;
- q. R.S. 14:81.2 molestation of a juvenile;
- r. R.S. 14:89 crime against nature; or
- s. R.S. 14:89.1 aggravated crime against nature.

2. Subject to the availability of resources and appropriate individual classification criteria, sex offenders as enumerated in §337.D.1.a - s and who are housed in a state correctional facility should be provided counseling and therapy by institutional mental health staff in a sex offender treatment program until successfully completed or until expiration of sentence, release on parole in accordance with and when permitted by R.S. 15:574.4, or other release in accordance with law, whichever comes first.

3. A sex offender treatment program means one which includes either or both group and individual therapy and may include arousal reconditioning. Group therapy should be conducted by two therapists, one male and one female. Subject to availability of staff, at least one of the therapists should be licensed as a psychologist, board-certified as a psychiatrist, or a clinical social worker. A therapist may also be an associate to a psychologist under the supervision of a licensed psychologist.

4. Reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, shall be made available to the Board of Parole.

5. If the inmate falls under the provisions of R.S. 15:538(C), then he should be treated in accordance with that statute and not R.S. 15:828.

E. Sex Offender Treatment Program Pursuant to C.Cr.P. Art. 895(J). In addition to other requirements of law, in cases where a defendant has been convicted of an offense involving criminal sexual activity, the court shall order as a condition of probation that the defendant successfully complete a sex offender treatment program. As part of the sex offender treatment program, the offender shall participate with a victim impact panel or program providing a forum for victims of criminal sexual activity and sex offenders to share experiences on the impact of the criminal sexual activity in their lives. The Director of Probation and Parole shall establish procedures to implement victim impact

panels. All costs for the sex offender treatment program, pursuant to this Subsection shall be paid by the offender.

F. Consent for Medroxyprogesterone Acetate Treatment Form

Consent for Medroxyprogesterone Acetate Treatment

By my signature below, I hereby confirm that I have been informed of the uses and side effects involved with medroxyprogesterone acetate treatment or its chemical equivalent, hereinafter referred to as "the Treatment."

My initials before each section of this consent form indicate that each section has been read and discussed with me by the physician or his designee on this date.

I understand that this medication is an accepted treatment for sex offender behavior, but the Treatment is not a "cure".

I understand that the Treatment will be given in addition to counseling and I agree to participate in counseling during the course of the Treatment.

I shall be responsible for the costs of the evaluation, the treatment plan, and the Treatment. If I am not indigent these services will be rendered by an outside mental health provider based upon a fee schedule established by the Department of Public Safety and Corrections. If I am on probation or under parole supervision, services will be rendered at the provider's place of business. If I am housed in an institution, services will be rendered by the provider at the state or local facility.

If I am indigent and on probation or under parole supervision, I will be responsible for seeking services through the Department of Health and Hospitals, Office of Mental Health. If I am housed in a state institution, services will be provided by the Department of Public Safety and Corrections' mental health staff and I will be charged a set-up fee based upon the fee scale for non-indigent inmates and my account will reflect the cost of the service as a debt owed.

I agree to cooperate with any psychological and medical evaluations, including but not limited to a complete physical examination and any laboratory, radiological, or neurological testing deemed necessary by the physician, with appropriate counseling by the physician or his designee prior to initiation of the Treatment to assess the possible effectiveness of the Treatment.

I understand that the following are possible or potential side effects associated with the Treatment:

Minor Side Effects

- Acne, dizziness, hair growth, headache, nausea, or vomiting. These side effects should disappear as your body adjusts to the medication.

- This medication can increase your sensitivity to sunlight. Avoid prolonged exposure to sunlight and sunlamps. Wear protective clothing and use an effective sunscreen.

- This medication may cause tenderness, swelling or bleeding of the gums. Brushing and flossing your teeth regularly may prevent this. Also, you should see your dentist regularly while you are taking this medication.

- If you feel dizzy or light-headed, sit or lie down for a while; get up slowly from a sitting or reclining position, and be careful of stairs.

Major Side Effects

- Tell your doctor about any side effects that are persistent or particularly bothersome. IT IS ESPECIALLY IMPORTANT TO TELL YOUR DOCTOR if you experience breast tenderness; chest pain; depression; fainting; hair loss; itching; pain in the calves; rapid weight gain ( three to five pounds within a week); rash; slurred speech; sudden, severe headache; swelling of the feet or ankles; or yellowing of the eyes or skin.

I understand that the Treatment should not interact with other medications if it is used according to the physician's directions and monitoring.

Promptly consulting your doctor is the best path to a quick and successful resolution of any medical problem or question you may have about the Treatment. I understand the following "Warnings" and agree to participate in my care by informing my physician of any problem, including but not limited to the following:

- Unusual or allergic reactions I have had to any medications, especially to medroxyprogesterone acetate (the Treatment), progestin, or progesterone.

- Any history of cancer of the breast or genitals, clotting disorders, diabetes mellitus, depression, epilepsy, gallbladder disease, asthma, heart disease, kidney disease, liver disease, migraines, porphyria, or stroke.

- Dizziness or drowsiness (do not take part in any activities that require alertness, such as driving a car or operating potentially dangerous machinery).

I understand that any physician or qualified mental health professional who acts in good faith in compliance with the provisions of La. R.S. 15:538(C), in the administration of the Treatment or the provision of counseling shall be immune from civil or criminal liability for his actions in connection with the Treatment or counseling as a means of altering sexual offender behavior.

I understand that in some individuals the Treatment may not be effective at all for the problem of sexual offender behavior.

If a relapse or recurrence of sexual offender behavior occurs while receiving the Treatment or after discontinuation of the Treatment, I agree to in-patient treatment if deemed appropriate by a physician, whether or not incarcerated at the time of recurrence of the sexual offender behavior.

I agree to a full psychological and medical evaluation with laboratory examination(s), radiological or neurological evaluation(s) as determined by the attending physician with appropriate counseling by the physician or his designee prior to release from custody or if I choose to discontinue the Treatment at any time.

I understand that once the Treatment is initiated, it shall continue unless it is determined by the physician or mental health professional that it is no longer necessary. I also understand that discontinuation of the Treatment at any time in the future would stop the therapeutic effect of the Treatment until it is resumed.

I understand that failure to continue or complete the Treatment shall be grounds for revocation of probation, parole, or suspension of sentence, or, if so conditioned by the Parole Board, revocation of release on diminution of sentence as if on parole. I also understand that if I am housed in an institution and fail to continue or complete the Treatment, good time earned may be forfeited pursuant to La. R.S. 15:571.4.

I, \_\_\_\_\_, on this date \_\_\_\_\_, have been informed of the uses and side effects involved with taking medroxyprogesterone acetate as a treatment for sex offenders. I agree to take the Treatment of my own free will and with full understanding of the possible risks versus potential benefit.

I, \_\_\_\_\_, on this date \_\_\_\_\_, have been informed of the uses and side effects involved with taking medroxyprogesterone acetate and refuse to participate in the Treatment. I understand that failure to participate will render me ineligible for probation, parole, suspension of sentence or diminution of sentence if conditioned by the court.

I, \_\_\_\_\_, on this date \_\_\_\_\_, give Dr. \_\_\_\_\_ permission to treat me with medroxyprogesterone acetate and agree to testing and counseling as stated above.

As the physician of record or his designee (medical or mental health), I attest to my counseling this patient of the use and side effects of medroxyprogesterone acetate or its chemical equivalent as treatment for sex offenders.

(Signature and date)

Patient Signature \_\_\_\_\_ Date \_\_\_\_\_
Physician Signature \_\_\_\_\_ Date \_\_\_\_\_
Witness (of Patient signature) \_\_\_\_\_ Date \_\_\_\_\_
Witness (of MD signature) \_\_\_\_\_ Date \_\_\_\_\_
Witness (of Patient signature) \_\_\_\_\_ Date \_\_\_\_\_
Witness (of MD signature) \_\_\_\_\_ Date \_\_\_\_\_

The consent form must be completed in its entirety with all three pages constituting a total consent form in Louisiana before the administration of medroxyprogesterone acetate treatment or its chemical equivalent for sexual offender behavior regardless of the sexual offender's current, prior, or future status of incarceration.

White copy consent Chart
Yellow copy consent Court
Blue copy consent Physician



AUTHORITY NOTE: Promulgated in accordance with R.S. 15:538(C).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 24:2308 (December 1998), amended LR 26:

Richard L. Stalder  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Sex Offender Treatment Plan and  
Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be no estimated costs associated with this amendment.
- 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)  
There are no additional costs or economic benefit directly affecting persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no anticipated impact on competition and employment.

Robert B. Barbor  
Executive Counsel  
9911#013

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Electronic Gaming Devices (LAC 42:XIII.Chapter 42)

LAC 42:XIII.4327, 4329, 4331, 4333, 4335, 4337, 4339, 4341, 4343, 4345, 4347, 4349, 4351, 4353, 4355, and 4357 have been incorporated into this new LAC 42:XIII.Chapter 42 and need to be stricken from LAC 42:XIII.Chapter 43.

**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 LAC42: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:

#### **§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.Chapter42 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.

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:

#### **§4203. Minimum Standards for Electronic Gaming Devices**

All EGD's submitted for approval:

A. shall be electronic in design and operation and shall be controlled by a microprocessor or micro-controller or the equivalent;

B. shall theoretically pay out a mathematically demonstrable percentage of all amounts wagered, which shall not be less than eighty percent (80%) and not more than ninety nine point nine percent (99.9%) for each wager available for play on the device;

C. 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:

1. 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

2. 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;

D. 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;

E. shall display the rules of play and payoff schedule;

F. shall not automatically alter pay-tables or any function of the device based on internal computation of the hold percentage;

G. shall be compatible to on-line data monitoring;

H. shall have a separate locked internal enclosure within the device for the control circuit board and the program storage media;

I. shall be able to continue a game with no data loss after a power failure;

J. shall have current game and the previous two games data recall;

K. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

L. 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;

M. 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;

N. shall be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

O. 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;

P. 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;

Q. shall contain a non-removable identification plate containing the following information, appearing on the exterior of the device:

1. manufacturer;
2. serial number; and
3. model number;

R. shall have a communications data format from the EGD to the EGD monitoring system approved by the Division;

S. 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;

T. 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;

U. shall have a locked compartment for housing currency, if so equipped with a currency acceptor;

V. shall, at a minimum, be capable of detecting and displaying the following error conditions which an attendant may clear:

1. coin-in jam;
2. coin-out jam;
3. currency acceptor malfunction or jam;
4. hopper empty or time-out;
5. program error;
6. hopper runaway or extra coin paid out;
7. reverse coin-in;
8. reel error; and
9. door open;

W. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

X. 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

Y. 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:

#### **§4204. Progressive Electronic Gaming Devices**

A. This section authorizes the use of progressive EGD's within one (1) 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 (1) 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 (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 (5) 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 (1) 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 (1) 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 (1) 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 one hundred thousand dollars (\$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 (2) 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 (1) 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 (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 (1) winning amount;
- b. the cumulative amounts paid on each progressive level if the progressive display has more than one (1) 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 (30) 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 (5) 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:

**§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 (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 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:

**§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 fifteen (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:

**§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:

**§4208. Certification by Manufacturer**

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:

A. certify under penalty of perjury that to the best of its knowledge the explanation is correct; or

B. 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:

**§4209. Approval of New Electronic Gaming Devices**

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.

A. Equipment Registration and Approval

1. 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.

2. The following shall not be used for gaming by any licensee without prior written approval of the Division:

a. bill acceptors or bill validators;

b. coin acceptors;

c. progressive controllers;

d. signs depicting payout percentages, odds, and/or rules of the game;

e. associated gaming equipment as provided for in LAC 42:XIII.Chapter 42 of the Administrative Rules.

3. 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.

4. The Division/Board may request additional information or documentation prior to issuing written approval.

B. Testing

1. The following shall be tested prior to registration or approval for use:

a. all EGD's;

b. EGD monitoring systems;

c. any other device or equipment as the Division/Board may deem necessary to ensure compliance with this.

2. The Division/Board may employ the services of a designated gaming laboratory to conduct testing.

a. 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.

3. Registration and/or approval shall not be issued unless payment for all costs of testing is current.

4. 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.

5. 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 (2) games;
- f. have a random selection process that satisfies the ninety-nine percent (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 ninety-nine and ninety nine one hundredths percent (99.99%) 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 (2) 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 (2) 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 (8) digits;

c. all EGD's shall tally totals to eight (8) 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 (1) the total number of bills that were accepted, (2) a breakdown of the number of each denomination of bill accepted, and (3) 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 one hundred and eighty (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 eighty percent (80%) and not more than ninety nine and nine tenths percent (99.9%) 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 (1) in fifty million (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 ninety nine percent (99%) confidence interval range of eighty percent (80%) to ninety nine point nine and nine tenths percent (99.9%) 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 ninety (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 ninety-day (90) trial period. Failure to do so may be grounds for denial of the request to remove the program prior to reaching the ninety nine and nine tenths (99.9%) confidence interval. The licensee, upon approval, shall be allowed to test the program and will be allowed to replace it during this ninety day (90) period with cause. If a request to replace the test program is not filed with the Division prior to the expiration of the ninety day (90) 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. Two (2) events are called independent if the following conditions exist.

i. the outcome of one (1) event has no influence on the outcome of the other event;

ii. the outcome of one (1) 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 ninety-nine percent (99%) 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 ninety-nine percent (99%) 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 one hundred and eighty (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 (1) 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. one dollar (\$1) bills;
- ii. five dollar (\$5) bills;
- iii. ten dollar (\$10) bills;
- iv. twenty dollar (\$20) bills;
- v. fifty dollar (\$50) bills;
- vi. one hundred dollar (\$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:

### **§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:

#### **§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 four (4) hours within a twenty-four (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 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:

#### **§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 one hundred dollars \$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:

#### **§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:

#### **§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:

#### **§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:

#### **§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:

#### **§4217. Seizure and Removal of Electronic Gaming Equipment and Devices**

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:

A. 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;

B. all such equipment or EGD's will be sealed or by other means made secure from tampering or alteration;

C. the time and place of the seizure will be recorded; and

D. 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.

#### **§4218. Seized Equipment and EGD's as Evidence**

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:

A. 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;

B. the Division/Board shall notify by certified mail each known claimant of a cheating device that the claimant has ten (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;

C. failure of a claimant to timely file a claim as provided in subsection (2) above will result in the Division/Board's pursuit of the destruction of property;

D. if the property is not characterized as a cheating device, such property shall be returned to the claimant within fifteen (15) days after final determination;

E. 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:

#### **§4219. Approval of Associated Equipment; Applications and Procedures**

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:

A. 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;

B. 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;

C. detailed operating procedures; and

D. 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:

#### **Chapter 43. Specifications for Gaming Devices and Equipment**

##### **§§4327. - 4357. Repealed.**

##### **FAMILY IMPACT STATEMENT**

Pursuant to the provisions of La. R.S. 49:953 A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the proposed addition of LAC 42:III.4201 et seq. and repeal of XIII.4327-4357.

It is accordingly concluded that the addition of LAC 42:III.4201 et seq. and repeal of XIII.4327-4357 would appear to have no impact on the following:

1. The Effect on Stability of the Family.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children.
3. The Effect on the Functioning of the Family.
4. The Effect on Family Earnings and Family Budget.
5. The Effect on 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.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit written comments relative to these proposed rules, through December 10, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain  
Chairman

##### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Electronic Gaming Devices**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no direct implementation costs or savings to state or local government units. A significant aspect of these proposed rules is necessitated by Act 1301 of 1999 requiring all riverboat licensees to be connected to a central computer system. This enactment will increase costs to State Police in an amount of approximately \$3.2 million over a period of five (5) years inclusive of financing costs. Act 1301 provides that these costs will be offset through payment of a \$50 per year fee on each gaming device by

licensees. This fee is expected to generate approximately \$650,000 per year and will expire in 2005.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that revenue collections will change significantly as a result of the LAC 42:XIII.4201 et seq.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Some costs may be incurred by riverboat licensees in order to convert electronic gaming devices to comply with the provisions of Act 1301 of 1999 and LAC 42:XIII.4201 et seq. However, the amount of such costs cannot be estimated at this time and are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain  
Chairman  
9911#040

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

Gaming Equipment and Raffles at Trade Shows and  
Conventions (LAC 42:II.Chapters 1 and 2)

The Office of State Police hereby gives notice that it intends to adopt LAC 42:II.101 et seq. in accordance with La. R.S. 47:7001 et seq., and the Administrative Procedure Act, La. R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part II. Gaming Equipment and Raffles at Trade Shows  
and Conventions**

**Chapter 1. Regulation of Gaming Equipment**

**§101. Applicability**

A. This Chapter shall apply to any person who manufactures, sells, distributes, transports or repairs any gaming equipment within this state for use outside this state or who proposes to engage in the manufacture, sale, distribution, transportation, or repair of any gaming equipment within this state for use outside this state and to any manufacturer or distributor of gaming equipment, whether or not licensed or permitted in the State of Louisiana, who proposes to temporarily display gaming equipment at a trade show or convention in a facility having a legal capacity of two hundred fifty or more persons.

B. Except as provided in Section 105, this Chapter shall not apply to:

1. any person authorized in accordance with provisions of the Louisiana Gaming Control Law, La. R.S. 27:1 et seq., to manufacture, distribute, own, operate, service, repair, maintain or inspect any slot machine, video draw poker device, other gaming device or equipment;

2. any person authorized in accordance with the Charitable Raffles, Bingo and Keno Licensing Law, La. R.S. 4:701 et seq., to manufacture, distribute, own, operate, service, repair, maintain or inspect any electronic video bingo machine, electronic video pull tab machine, other gaming device or equipment;

3. any person operating amusement games in accordance with the provisions of La. R.S. 4:10.1 et seq.;

4. any person operating a lottery game or equipment in accordance with the provisions of the Louisiana Lottery Corporation Law, La. R.S. 47:9001 et seq.;

5. any person operating gaming equipment pursuant to a tribal compact executed between a federally recognized Indian tribe and an authorized representative of the State of Louisiana pursuant to the provisions of the Indian Gaming Regulatory Act; or

6. any person in possession of an antique slot machine as defined in and as provided by La. R.S. 15:31.1.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

**§102. Definitions**

As used in this Chapter, the following terms shall have the meanings provided below:

*Applicant*—any person which has submitted an application to manufacture, sell, distribute, transport or repair gaming equipment within the state pursuant to the provisions of this Chapter.

*Division*—the Gaming Enforcement Division of the Office of State Police.

*Gaming Equipment*—any mechanical, electrical, or other contrivance used to facilitate the risking of loss of anything of value in order to realize a profit.

*Transporter*—any person primarily engaged in the business of transporting gaming devices or equipment for hire.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

**§103. Application; Fees**

A. Any applicant for a license or permit pursuant to the provisions of this Chapter shall submit an application to the Division on forms prescribed and provided by the division.

B. The following fees shall apply to each specified type of license or permit and shall accompany each new or renewal application:

Manufacturer	\$2,000
Distributor	\$1,000
Service/Repair Entities, Transporter	\$ 500
Temporary Permits	\$ 100

C. Applicants shall provide additional information and documentation as requested by the division. Failure to provide requested information and documentation shall render an application incomplete.

D. Applicants, licensees and permittees shall notify the division in writing of all changes to information required in any application within ten (10) days of the effective date of the change.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

**§104. License Expiration and Renewal**

A. All licenses issued pursuant to the provisions of this Chapter shall expire on June 30 of each year.

B. A renewal application shall be submitted to the Division on forms prescribed and provided no later than May 1 of the current licensing year.

C. Renewal applications shall be accompanied by the appropriate annual fee as provided in §103.B.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

#### **§105. Temporary Permit and Application**

A. A manufacturer or distributor of gaming equipment may apply for a permit to temporarily display gaming equipment at a trade show or convention in a facility with a legal capacity of two hundred fifty or more persons for a period not to exceed fifteen consecutive days by submitting an application to the Division on forms prescribed and provided by the Division.

B. An application for a temporary permit shall be submitted to the Division no later than thirty (30) days prior to the date the applicant proposes to ship or transport gaming equipment into the state.

C. Each application for a temporary license shall contain the following information:

1. description of gaming equipment, including the name of manufacturer, model number, serial numbers, and identification numbers, if applicable;

2. a detailed description of the period of time and purpose for which the gaming equipment will be located within the state;

3. identification of the method to be utilized to transport the gaming equipment into and out of the state, including the name of common carrier or shipper;

4. identification of the locations the gaming equipment will be stored, displayed, repaired or otherwise possessed within the state and a description of the security measures to be implemented at each location;

5. name, address and social security number of any and all employees or agents which will or may be in custody or control of gaming equipment located in the state during the permit period;

6. copies of up to two current gaming licenses or permits from other gaming jurisdictions, if applicable.

D. Upon timely receipt of sufficient information and payment of the appropriate fee, the Division may issue a temporary permit to the applicant for the limited purposes and time periods provided in the application, not to exceed fifteen days.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

#### **§106. General Requirements**

A. All applicants, licensees and permittees shall insure that gaming equipment is not used for gambling purposes.

B. Unless necessary for repair, servicing or inspection, no gaming equipment shall be operated in any manner other than a display mode.

C. No gaming equipment shall be operated by persons under twenty-one (21) years of age.

D. All gaming equipment and all areas where gaming equipment is stored or otherwise located shall be made available for immediate inspection by agents of the Division.

E. Applicants, licensees and permittees shall be and remain in compliance with all applicable local ordinances, state and federal laws, including 15 USC 1171 et seq.

F. Except when on display in a public facility, all gaming equipment shall be stored in a secured location inaccessible to persons other than authorized agents of the licensee or permittee.

G. All gaming equipment on display in a public facility shall be maintained in the immediate custody and control of an authorized agent of the licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

#### **§107. Reporting and Recordkeeping Requirements**

A. All licensed manufacturers and distributors shall maintain a current record of gaming equipment received, gaming equipment sold, and gaming equipment in inventory.

B. All licensed manufacturers and distributors shall provide the division with a current list of authorized service entities and other personnel that they have certified. The list, which shall be updated in order to maintain an accurate list of service personnel, shall include, but not be limited to the following information:

1. name and address of service entity and all of its certified technicians;

2. social security number and date of birth of all technicians;

3. date of certification of all technicians; and

4. level(s) of certification of all technicians.

##### **C. Licensed Manufacturers**

1. If requested by the division, all licensed manufacturers shall provide a semi-annual report, signed by the licensee or an authorized representative of the licensee, on forms provided by the Division.

2. The semi-annual report shall include, but not be limited to the following information:

a. gross gaming equipment sales for that period;

b. specific delivery location of all gaming equipment and identity of person(s) purchasing and receiving gaming equipment;

c. names and addresses of carriers used in transporting gaming equipment;

d. names and addresses of person to whom the gaming equipment was sold;

e. list of gaming equipment sold to each licensee;

f. if applicable, make, model and serial number of all gaming equipment sold and in inventory.

##### **D. Licensed Distributors**

1. If requested by the division, all licensed distributors shall provide a quarterly report, signed by the licensee or an authorized representative of the licensee, on forms provided by the division.

2. The quarterly report shall include, but not be limited to the following information:

a. gross sales for the quarter;

b. make, model, and serial number of all gaming equipment sold or leased;

c. name and address of all persons that the gaming equipment was sold or leased to;

d. description of gaming equipment sold or leased;

e. delivery address of each item of gaming equipment sold or leased; and

f. if requested, copies of invoices, credit memos and/or documents substantiating any transactions and/or sales.

3. In addition, if requested by the division, all licensed distributors shall provide a quarterly inventory report, signed by the licensee or an authorized representative of the licensee, on forms provided by the division.

4. The inventory report shall include, but not be limited to the following information:

a. total number of items of gaming equipment in inventory; and

b. if applicable, make, model, and serial number of all gaming equipment in inventory.

#### E. Licensed Service or Repair Entities

1. All licensed service or repair entities shall be required to maintain the following records:

a. invoices, of all services and/or repairs to gaming equipment which shall contain, but not be limited to:

i. date gaming equipment was received;

ii. date gaming equipment was serviced;

iii. date gaming equipment was returned;

iv. service or repair entity name and license number;

v. gaming equipment owner name;

vi. manufacturer, make, model and serial number of the gaming equipment, if applicable; and/or

vii. description of service and/or repair performed on the gaming equipment;

viii. name of certified technician performing service and/or repair on the gaming equipment.

b. a list of all certified technicians, including a list of the types of devices and equipment that each technician is certified to service and/or repair.

F. Licensed Transporters. All licensed transporters shall be required to maintain the following records relative to gaming equipment transported within the state:

1. name of manufacturer, serial number, and model number if applicable;

2. date of transport, identification of points of origin and destination;

3. copies of all bills of lading and invoices; and

4. name and address of shipper and recipient.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

### §108. Hearings

A. Any person whose license or permit the division proposes to suspend or revoke, other than immediate suspensions as provided in La. R.S. 47:7005 D., may request a hearing by filing a written request with the division. The request shall be filed within 10 days of the date of receipt of the certified mailing or personal service of the notice of proposed action.

B. A hearing shall be conducted in accordance with procedural and evidentiary rules contained in the Administrative Procedure Act, R.S. 49:950 et seq., La. R.S. 47:7001 et seq. and rules promulgated in accordance therewith.

C. No discovery request shall be made within 20 days of the date scheduled for the hearing.

D. Hearing requests shall be promptly docketed and scheduled for hearing.

E. The requesting party shall be notified of the time, date and location of the hearing by certified mail or personal service.

F. Testimony taken at a hearing shall be under oath.

G. Depositions may be used at hearings as provided in the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

### §109. Record Preparation Fees

A. Any person requesting a hearing, or to whom a hearing is being afforded pursuant to La. R.S. 47:7001 et seq. and rules promulgated in accordance therewith, shall be assessed and pay a fee based upon costs of preparing the administrative record and transcript for submission to the division or the 19th Judicial District Court.

B. No less than 10 days prior to the date scheduled for the administrative hearing, the party shall deposit with the division the sum of \$100 as prepayment of the costs of preparing the administrative record and transcript.

C. Failure to timely pay the \$100 deposit may result in dismissal of the hearing with prejudice.

D. After the hearing has been conducted, the actual costs of preparing the administrative record and transcript will be determined by the division and the party will be notified of such actual costs.

E. In the event actual costs are less than \$100, a refund will be made to the party.

F. Actual costs in excess of \$100 shall be assessed against the party, who shall pay the excess costs within 10 days of the date of receipt of the notice of assessment.

G. Failure to timely pay the excess costs assessed may result in dismissal of the hearing, and shall prevent the record and transcript from being transmitted to the 19<sup>th</sup> Judicial District Court.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

## Chapter 2. Raffles at Trade Shows and Conventions

### §201. Applicability

A. This Chapter shall apply to any person conducting a raffle at a trade show or convention having a legal capacity of two hundred fifty or more persons pursuant to La. R.S. 47:7001 et seq.

B. This Chapter shall not apply to:

1. any person or organization conducting a raffle pursuant to the provisions of the Charitable Raffles, Bingo and Keno Licensing Law, La. R.S. 4:701 et seq.;

2. any person conducting a raffle pursuant to the provisions of Acts 1999, No. 1390.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

### §202. Definitions

As used in this Chapter, the following terms shall have the meanings provided below:

*Division*—The Gaming Enforcement Division of the Office of State Police.

*Raffle*—a game of chance 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.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

### §203. Temporary Permit and Application

A. A person may apply for a permit to conduct a raffle at a trade show or convention in a facility having a legal capacity to hold two hundred fifty or more persons for a period not to exceed fifteen consecutive days by submitting an application to the division on forms prescribed and provided by the division.

B. An application for a temporary permit shall be submitted to the division no later than thirty (30) days prior to the date the applicant proposes to conduct the raffle drawing.

C. Each application for a temporary permit shall contain the following information:

1. name and location of facility where trade show or convention is to be held;

2. dates of trade show or convention, dates raffle tickets will be sold and date and time drawing shall be conducted at the facility;

3. name, address, and social security number of each person which will sell raffle tickets or conduct the raffle drawing;

4. description and reported value of the prize or prizes to be awarded and the amount which will be charged for tickets or, if applicable, a statement that any or all tickets may be given away;

5. cost of tickets or chances to win.

D. Upon timely receipt of sufficient information and payment of a fee in the amount of \$50, the Division may issue a temporary permit to the applicant for the limited purposes and time periods provided in the application, not to exceed fifteen (15) days.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

### §204. General Requirements

A. Any prize which will be awarded by raffle drawing shall be owned by the applicant or permittee prior to the sale of any tickets or chances to win.

B. No raffle shall be conducted where the winner must be present at the drawing in order to win, unless clearly stated on the raffle ticket.

C. Raffle tickets or chances to win shall be consecutively numbered and designed and constructed to allow the licensee to retain a consecutively numbered stub for each ticket sold and to provide the purchaser with a matching consecutively numbered ticket at the time of purchase.

D. Permittee shall retain the following records and documentation for three years from the date of the raffle drawing:

1. name, address, and social security number of the winner(s);

2. amount received from the sale of all raffle tickets and expenses incurred;

3. stubs of all tickets sold, winning tickets and the unsold tickets; and

4. copies of all records and documentation submitted in conjunction with the raffle to any local, state or federal taxing authority.

E. Permittees shall comply with all applicable local ordinances, and state and federal laws and regulations, including, but not limited to, income withholding and reporting requirements.

F. Permittees shall take steps to insure that each ticket purchaser has an equal chance to win and that the prize winner is selected in an entirely random manner.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 47:7001 and 7003.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit written comments relative to these proposed rules, through December 10, 1999 to 339 Florida Street, Suite 500, Baton Rouge, Louisiana 70801.

Pursuant to the provisions of La. R.S. 49:953 A., the Louisiana State Police, through its superintendent, has considered the potential family impact of the proposed addition of LAC 42:II.101 et seq.

It is accordingly concluded that the addition of LAC 42:II.101 et seq. would appear to have no impact on the following:

1. The Effect on Stability of the Family.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children.
3. The Effect on the Functioning of the Family.
4. The Effect on Family Earnings and Family Budget.
5. The Effect on 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.

W. R. "Rut" Whittington  
Superintendent

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Gaming Equipment and Raffles at Trade Shows and Conventions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units. The adoption of LAC 42:II.101 et seq. may result in some increased workload to the Office of State Police but the amount of increase and cost cannot be estimated at this time due to the fact that the number and types of events involved is unknown and not constant. It is anticipated that any increase in workload can be performed at existing staffing levels.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on revenue collections can be estimated. Revenues will increase as a result of the adoption of LAC 42:II.101 et seq. as a result of fees provided under the rules. However, the amount of any increase cannot be estimated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits to directly affected persons or non-governmental groups can be estimated. No fees are expected to be received from manufacturers or distributors except as temporary permittees. Permittees will be required to pay fees of \$100 to display gaming devices at a trade show or convention, and persons conducting raffles at trade shows and conventions will be required to pay a \$50 fee. However, the amount of permits which will be sought for display or raffles cannot be estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

W. R. "Rut" Whittington  
Superintendent  
9911#065

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

Towing, Recovery, and Storage  
(LAC 55:I.1903, 1907, 1909, 1917, 1921,  
1933, 1939, 1941, 1945, 1949, and 1969)

The Department of Public Safety and Corrections, Office of State Police, Towing, Recovery and Storage Section, in accordance with R.S. 49:950 et seq., and R.S. 32:1711 through R.S. 32:1731, gives notice of its intent to adopt rules pertaining to the towing and storage industry.

**Title 55**

**PUBLIC SAFETY**

**Part I. State Police**

**Chapter 19. Towing, Recovery, and Storage**

**§1903. Scope**

A. - C.4. ...

D. Tow trucks that are owned by a business not engaged in towing and/or storage for direct or indirect compensation. An example of that is a tow truck owned by a company to tow vehicles belonging to that company's fleet. Another example would be a tow truck used to pick up vehicles from salvage pools provided that the owner of the tow truck also is the owner of the salvage vehicles. This must be documented by Titles and/or Bills of Sale for the vehicle(s) being towed and such documentation shall be with the driver of the tow truck.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:

**§1907. Definitions**

\* \* \*

*Tow Truck*—a motor vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts, under-reach equipment, and/or similar equipment including, but not limited to, trucks attached to trailers or dollies, and car carriers designed for the transportation and/or recovery of

vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), LR 26:

**§1909. Tow Truck License Plates**

A. - C.2. ...

D. Any notice required by law or by the rules of the Department served upon any holder of a towing license plate shall be served personally or mailed to the last known address of such person as reflected by the records on file with the Department. It is the duty of every holder of a tow truck license plate to notify the Department of Public Safety and Corrections, in writing, as to any change in the address of such person or his principal place of business within ten (10) days of such change.

E.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:

**§1917. Towing Operators Requirements**

A. - C. ...

D. Drivers must be eighteen (18) years of age or older. Only those with a Louisiana drivers license shall be permitted to drive and operate a tow truck. The class of operators license must be compatible to the equipment operated.

E. A towing service will not be allowed to receive calls on any police radio communications system, unless authorized by a law enforcement agency and possesses a valid FCC license.

**§1921. Other Required Equipment**

A. - B. ...

C. Fire Extinguishers: Each tow truck shall be equipped with a fire extinguisher having an Underwriters Laboratories rating of 5 B:C or more.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:

**§1933. Prohibition of Unauthorized Operation**

A. No person regulated under these rules shall stop at the scene of an accident or at or near an unattended disabled vehicle for the purpose of soliciting an engagement for towing service, either directly or indirectly, nor furnish any towing service, unless that person has been summoned to such scene by the owner or operator of the disabled vehicle or has been requested to perform such services by a law enforcement officer or agency pursuant to that agency's authority.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:

### **§1939. Towing/Storage Facility Business Practices**

A. Storage facility business hours for purposes of inspection of records, place of business, and towing equipment shall be 8 a.m. to 5 p.m., excluding weekends and holidays.

1. When an operator is not open for business and does not have personnel present at the place of business, the operator shall post a clearly visible telephone number at the business location for the purpose of advising the public how to make contact for the release of vehicles or personal property.

2. All billing invoices that are provided to the redeemer of the vehicle shall be consecutively numbered and shall contain the following information:

- a. date of service and tow truck operator(s) name;
- b. the name of any police agency requesting the tow if applicable;
- c. if the call for service is for a private individual, then an invoice must contain the full name, address, drivers license number or some form of permanent identification of the person requesting the tow and his/her signature at time of tow;
- d. itemized fees for service;
- e. the date the vehicle was released;

3.a. - c. ...

B. - D. ...

E. Towing services must make business records available for inspection upon request by law enforcement officers, and shall provide copies upon request, which information shall be confidential and shall not be released or deemed a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), amended LR 26:

### **§1941. Storage Procedures**

A. - D. ...

E. Movable personal items shall not purposely be kept until payment is rendered. These items will be released to the owner upon request if there is no police hold on them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:

### **§1945. Storage Rates**

A. - C. ...

D. The daily storage fee shall be the only fee charged by the storage facility during storage of a vehicle. There shall be no additional charges for locating the vehicle in the storage facility, viewing of the vehicle, photography of the vehicle, removal of items from the vehicle, or for any other similar activity which does not require towing or moving of the vehicle during regular business hours. A towing or storage company that assesses gate fees shall not assess such fees in an amount in excess of forty-five dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), amended LR 26:

### **§1949. Owner Notification of a Stored Vehicle**

A. - B. ...

C. Administrative Fees

1. Towing Services may charge the registered owner/lien holder those administrative costs incurred by filing of the official report of stored vehicle card with the Office of Motor Vehicles along with any postal charges related to the mailing of the official report of stored vehicle card or certified letters to the registered owner/lien holder.

2. All costs must be documented with receipts which shall be made available to the registered owner/lien holder upon demand. Failure to comply will result in the forfeiture of all administrative costs, towing, and storage fees.

3. At no time will administrative costs exceed thirty-five (35) dollars for in-state notifications and forty (40) dollars for out-of-state notifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:

### **§1969. Recovery of Civil Penalties**

A. To enforce the collection of a civil penalty levied after due process upon a person determined by the Deputy Secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of R.S. 32:1711 et seq., or adopted and promulgated regulations as provided in this Chapter, the deputy secretary:

1. may order the removal of the offending vehicle's license tag if the registration is from this state:

2. may seize any vehicle not registered within the state which is owned by the person or company in violation:

3. may have the driver's or owner's operator's license suspended for a violation(s) committed by the driver or operator.

B. The Deputy Secretary shall enforce the provisions of Subsection A as follows.

1. The removal of a vehicle's license tag shall be completed any upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

2. When the person or company fails to remit a levied civil penalty within ninety (90) days subsequent to the seizure of a vehicle as authorized in this section, the Department of Public Safety and Corrections shall collect the penalty in a manner consistent with applicable law.

3. The suspension of a driver's or owner's license shall be completed and upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:

### **Family Impact Statement**

1. The Effect of These Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of These Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments to: Paul Schexnayder, Post Office Box 66614, Baton Rouge, Louisiana 70896-6614. Written comments will be accepted through December 15, 1999.

Nancy Van Nortwick  
Undersecretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Towing, Recovery, and Storage**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rules are expected to have no associated implementation costs to either state or local governments.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules are anticipated to have 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)**

The towing industry will realize an economic benefit from these rules due to the provision raising the amount of administrative costs that may be charged in connection with a particular tow.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

These rules should have no effect on competition and employment.

Nancy Van Nortwick  
Undersecretary  
9911#027

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Social Services Office of Family Support**

Family Independence Temporary Assistance Program (FITAP)—Time Limits (LAC 67:III.1203, 1209, 1247)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency proposes to amend §1203 and §1209 to include changes necessary to FITAP as a result of the Kinship Care Subsidy Program. (The Notice of Intent which proposes the KCSP can also be found in this issue.)

In addition, the agency proposes to add another exception to the 24-month time-limit provision for the parent that is employed and entitled to the \$900 disregard. The agency takes this action to further the intent of R.S. 46:460.5(A)(3) as revised by the 1999 Louisiana Legislature. These changes are being made subsequent to codification changes proposed as *FITAP—Application, Eligibility and Furnishing Assistance* in a Notice of Intent published in August 1999 which the agency intends to publish as a final rule in the December 1999 issue of the *Louisiana Register*.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 2. Family Independence Temporary Assistance Program (FITAP)**

#### **Chapter 12. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance**

#### **§1203. Standard Filing Unit**

The mandatory filing unit includes the child, the child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. Supplemental Security Income (SSI) recipients and children receiving Kinship Care Subsidy Payments may not be included in the filing unit.

**AUTHORITY NOTE:** Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, amended LR 25:

**§1209. Notices of Adverse Actions**

A. - A.13. ...

14. the child is certified for Kinship Care Subsidy Payments.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 25:

**§1247. Time Limits**

A. - B.6....

7. the parent is employed and entitled to the \$900 disregard.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6, R.S. 46:460.5(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 25:

Interested persons may submit written comments by December 29, 1999 to the following: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 28, 1999 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning 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 Area Code 225-342-4120 (Voice and TDD).

**Family Impact Statement**

1. What effect will this rule have on the stability of the family? Implementation of the Kinship Care Subsidy Program will have a positive impact on the stability of eligible families by enhancing the ability of the caretaker relative to meet the financial needs of eligible children.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children. Children will, however, be required to meet the school attendance requirements of the program in order to maintain eligibility.

3. What effect will this have on the functioning of the family? The functioning of the family will be positively impacted due to a reduction in the financial strain created by the child's presence in the home.

4. What effect will this have on family earnings and family budget? There will be no impact on family earnings. There will be a favorable impact on the family budget.

5. What effect will this have on the behavior and personal responsibility of children? In order to maintain eligibility, children will be required to meet school attendance requirements which will have a positive impact on the child's behavior and personal responsibility.

6. Is the family or local government able to perform the function as contained in this proposed rule?

Assistance is provided to families which meet the financial eligibility requirements and are, thus, unable to fully meet the financial needs of eligible children. Assistance which may be provided by local governments is considered in determining eligibility.

Gwendolyn P. Hamilton  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Family Independence Temporary  
Assistance Program—Time Limits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no costs or savings anticipated for changes made at §1203 and §1209 except the minimum cost of publishing the rule. The additional exemption at §1247 may increase state costs by making more applicants eligible; however, this number cannot be projected. The number would be expected to be very low and any associated Family Independence Temporary Assistance Program (FITAP) benefits would be paid from the Louisiana Temporary Assistance for Needy Families (TANF) Block Grant which is federally funded.

**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)**

A small number of applicants may be eligible for FITAP as a result of the exception at §1247. Since this is a new exemption, neither the number nor the economic benefit can be estimated. There are no estimated costs and/or economic benefits to any non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will have no impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9911#038

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

Food Stamp Program—Categorical Eligibility  
(LAC 67:III.1987)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 3, Food Stamps.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act, and subsequent interpretations and directives regarding 7 CFR 273.2(j) which allow the state flexibility and discretion as to which individuals may be considered categorically eligible for food stamps, the agency proposes to amend §1987 to expand categorical eligibility to include households in which one member receives cash benefits from the

Louisiana TANF Block Grant or all members receive SSI. The agency also proposes revising the section to remove references to monthly reporting requirements and the General Assistance Program, both of which are obsolete.

#### **Title 67**

### **SOCIAL SERVICES**

## **Part III. Office of Family Support**

### **Subpart 3. Food Stamps**

## **Chapter 19. Certification of Eligible Households**

### **Subchapter J. Determining Household Eligibility and Benefit Level**

#### **§1987. Categorical Eligibility for Certain Recipients**

##### **A. Households Considered Categorically Eligible**

1. Households in which a member is a recipient of benefits from the FITAP, FIND Work and/or Kinship Care Subsidy Programs, and households in which all members are recipients of SSI, shall be considered categorically eligible for food stamps.

2. "Recipient" includes an individual determined eligible for TANF or SSI benefits, but the benefits have not yet been paid.

3. "Recipient" shall also include a person determined eligible to receive zero benefits, i.e., a person whose benefits are being recouped or a TANF recipient whose benefits are less than \$10 and therefore does not receive any cash benefits.

4. A household shall not be considered categorically eligible if:

- a. any member of that household is disqualified for an intentional program violation;
- b. the household is disqualified for failure to comply with the work registration requirements.

5. The following persons shall not be considered a member of a household when determining categorical eligibility:

- a. an ineligible alien;
- b. an ineligible student;
- c. an institutionalized person.

6. Households which are categorically eligible are considered to have met the following food stamp eligibility factors without additional verification:

- a. resources;
- b. social security numbers;
- c. sponsored alien information;
- d. residency.

7. These households also do not have to meet the gross and net income limits, but verification of income not counted for TANF/SSI is required (e.g. educational assistance). If questionable, the factors used to determine categorical eligibility shall be verified.

8. Categorically eligible households must meet all food stamp eligibility factors except as outlined above.

9. Changes reported by categorically-eligible Food Stamp households shall be handled according to established procedures except in the areas of resources or other categorical eligibility factors.

10. Benefits for categorically-eligible households shall be based on net income as for any other households. One and two person households will receive a minimum benefit of \$10. Households which meet categorical eligibility requirements but are not eligible for benefits must be certified and handled as if they were eligible for benefits. The household shall be notified that income exceeds the level at which benefits are issued but that they are categorically eligible and certified for participation. The household shall be advised of their reporting requirements.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P. L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR:

Interested persons may submit written comments by December 28, 1999 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 28, 1999 at the Department of Social Services, A. Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning 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 Area Code 225-342-4120 (Voice and TDD).

#### **Family Impact Statement**

1. What effect will this rule have on the stability of the family? This proposed change to expand categorical eligibility will provide these families with increased access to food resources thereby having a positive effect on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This proposed changes will have no effect in this area.

3. What effect will this have on the functioning of the family? The reduction of the financial strain on newly eligible families will have a positive impact on the functioning of these families.

4. What effect will this have on family earnings and family budget? There will be no impact on family earnings. Eligible families will have more disposable income to meet family needs other than food.

5. What effect will this have on the behavior and personal responsibility of children? An improved diet made

possible by access to food benefits should have a positive impact on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? Neither can perform the function as contained in this rule.

Gwendolyn Hamilton  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Food Stamp Program-Categorical  
Eligibility**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Since this rule proposes only to expand Food Stamp categorical eligibility, the only cost to the state is the minimal charge for publication of the rulemaking and printing of policy revision. Funding for these costs is included in the agency's annual budget. Any increase in food stamp benefits being paid as a result of the rule is federally funded. There are no costs or savings to any 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)  
There will be economic benefit to any households made eligible for food stamps as a result of this rule. There are no costs or benefits to any non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule will have no impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9911#057

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT  
Department of Social Services  
Office of Family Support**

Kinship Care Subsidy Program—Hearings  
(LAC 67:III.301, 307, 309)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 1, General Administrative.

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency proposes to amend §301, §307, and §309 to include changes necessary as a result of the proposed Kinship Care Subsidy Program (KCSP). This change is being made subsequent to codification proposed as *Chapter 3. Hearings* in a Notice of Intent on Hearings published in August 1999 which the agency intends to publish as a final rule in the November 1999 issue of the *Louisiana Register*. (The Notice of Intent which proposes the Kinship Care Subsidy Program can also be found in this issue.)

**Title 67  
SOCIAL SERVICES  
Part III. Office of Family Support  
Subpart 1. General Administration**

**Chapter 3. Hearings  
§301. Definitions**

\*\*\*

*Benefits*—are any kind of assistance, payments or benefits made by the agency for the Family Independence Temporary Assistance Program (FITAP), Family Independence Work Program (FIND Work), Kinship Care Subsidy (KCSP), Refugee Cash Assistance (RCA), Food Stamp, or Child Care Assistance (CCAP) Programs.

\*\*\*

*Public Assistance Household*—is a food stamp household in which all members receive FITAP, KCSP, RCA, or federal Supplemental Security Income.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by Department of Social Services, Office of Family Support, amended LR 26:

**§307. Time Limits for Requesting a Fair Hearing**

A. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a Fair Hearing:

FITAP	30 days
FIND Work Program	30 days
Kinship Care Subsidy Program	30 days
Child Care Assistance	30 days
Refugee Cash Assistance	30 days
Food Stamps	90 days

The client may appeal at any time during a certification period for a dispute of the current level of benefits.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 26:

**§309. Time Limits for Decisions to be Rendered**

A. A prompt, definitive, and final decision must be provided within the number of days from the date of the Fair Hearing request as listed below:

FITAP	90 days
FIND Work Program	90 days
Kinship Care Subsidy Program	90 days
Child Care Assistance	90 days
Refugee Cash Assistance	90 days
Food Stamps	60 days*

\*or 90 days for Public Assistance households simultaneously appealing the same issue in Public Assistance and Food Stamp cases

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 26:

Interested persons may submit written comments by December 28, 1999 to the following: Vera W. Blakes,

Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 28, 1999 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning 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 Area Code 225-342-4120 (Voice and TDD).

**Family Impact Statement**

This rule has no effect on the function or stability of the family: it concerns only administrative actions in the agency's fair hearing process and is necessary to add the new Kinship Care Subsidy Program (KCSP) to the process. The Family Impact Statement on the proposed KCSP can be found in this issue with the related Notice of Intent.

Gwendolyn P. Hamilton  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hearings-Kinship Care Subsidy  
Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The immediate implementation cost to state government is the cost of publishing the rule. There are no costs 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)  
There are no costs or economic benefits to persons or non-governmental units.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule will have no impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9911#058

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

**Kinship Care Subsidy Program—Implementation  
(LAC 67:III.Chapter 53)**

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, to add Subpart 13, the Kinship Care Subsidy Program (KCSP).

Pursuant to R.S. 46:237 which was enacted by the 1999 Louisiana Legislature and which created the Grandparent Subsidy Program, the agency now proposes to establish the Kinship Care Subsidy Program (KCSP). This program will enable grandparents and other certain qualified caretaker relatives, other than parents, to receive a cash subsidy for eligible children.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 13. Kinship Care Subsidy Program (KCSP)  
Chapter 53. Application, Eligibility, and Furnishing  
Assistance**

**Subchapter A. Application, Determination of Eligibility,  
and Furnishing Assistance**

**§5301. Application**

All individuals applying for Kinship Care Subsidy Program (KCSP) shall be considered applicants for assistance and shall file a written and signed application form under a penalty of perjury. The date the application form is received in the parish office shall be considered the date of application. Applicants for KCSP must apply for benefits through Family Independence Temporary Assistance Program (FITAP).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

**§5303. Application Time Limit**

The time limit for disposition of the application is 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), or be notified that he has been found ineligible for KCSP by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:



### **§5305. Certification Period and Reapplication**

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the re-application process, a change is reported which results in a determination of ineligibility the case will be closed.

B. The Office of Family Support will require an official reapplication for benefits following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

### **§5307. Notices of Adverse Actions**

A. A notice of adverse action shall be sent at least 13 days prior to taking action to terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. the agency has factual information confirming the death of the KCSP payee;
2. the client signs a statement requesting closure and waiving the right to advance notice;
3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;
4. a client has been certified in another state and that fact has been established;
5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;
6. the client has been admitted or committed to an institution;
7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;
8. the agency disqualifies a household member because of an Intentional Program Violation and benefits are terminated because of the disqualification;
9. the worker ends benefits at the end of a normal period of certification when the client timely reapplies;
10. the case is closed due to the amount of child support collected through Support Enforcement Services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

### **§5309. Domestic Violence**

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;
2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;
3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;
4. physical evidence of domestic violence; or
5. other evidence which supports the statement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

### **Subchapter B. Conditions of Eligibility**

#### **§5321. Age Limit**

A. A dependent child must be:

1. under 16 years of age, or
2. sixteen to 19 years of age either in school and working toward a high school diploma, GED, or special education certificate or participating in the FIND Work Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

#### **§5323. Citizenship**

A. Each KCSP recipient must be a United States Citizen or a qualified alien. A qualified alien is:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. an alien who is granted asylum under Section 208 of such Act;
3. a refugee who is admitted to the United States under Section 207 of such Act;
4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);
6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980;

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

- a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or
- b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA, or
- c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or
- d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA.

9. an alien child or the alien parent of a battered alien as described in 8 above.

B. Time-limited Benefits. A qualified alien who enters the United States after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;
2. the alien is granted asylum under Section 208 of such Act;
3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);
4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;
6. the alien is lawfully residing in the United States and is a *veteran* (as defined in Sections 101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of 1304 of Title 38, *United States Code*, and unmarried dependent children; or

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if

the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

#### §5325. Enumeration

Each applicant for or recipient of KCSP is required to furnish a social security number or to apply for a Social Security number if such a number has not been issued or is not known, unless good cause is established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

#### §5327. Living in the Home of a Qualified Caretaker Relative

A. A child must reside in the home of a qualified caretaker relative who is responsible for the day to day care of the child and who has legal custody or guardianship of the child. The child's parents may not reside in the home. Benefits will not be denied when the qualified caretaker relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified caretaker relatives:

1. grandfather or grandmother (extends to great-great-great);
2. step-grandfather or step-grandmother (extends to great-great-great);
3. brother or sister (including half-brother and half-sister);
4. uncle or aunt (extends to great-great);
5. first cousins (including first cousins once removed);
6. nephew or niece (extends to great-great);
7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

#### §5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;
2. earned income of a child who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. Earned Income Credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. Agent Orange Settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;

13. Indian and Native Claims and Lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;
20. Wartime Relocation of Civilians Payments;
21. Developmental Disability Payments;
22. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
23. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
24. Radiation Exposure Compensation Payments;
25. payment to victims of Nazi persecution; or
26. restricted income received for a person not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments.

**B. Pretest**

1. In order to meet this requirement, the gross countable income of the caretaker relative's KCSP income unit must be less than 150 percent of the federal poverty threshold for the family size.

2. For purposes of this pretest, the caretaker's KCSP income unit is defined to include:

- a. the child; and
- b. the caretaker relative; and
- c. anyone residing in the home for whom the caretaker relative claims financial responsibility.

3. For purposes of this pretest, income is defined as countable income belonging to any member of the KCSP income unit.

**C. Income after pretest**

1. The child is determined eligible for KCSP if the child's countable income is less than \$172. If the child's countable income is \$172 or more the child is ineligible.

**D. Payment Amount**

1. Payment amount is \$172 a month for each eligible child.

**AUTHORITY NOTE:** Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 26:

**§5331. Immunization**

Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's ineligibility for the KCSP subsidy until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or his/her qualified caretaker relative submits a written statement from a physician stating that the immunization procedure is

contraindicated for medical reasons, or if the person or his/her qualified caretaker relative objects to the procedure on religious grounds.

**AUTHORITY NOTE:** Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 26:

**§5333. Residency**

KCSP recipients must reside in Louisiana with intent to remain.

**AUTHORITY NOTE:** Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 26:

**§5335. School Attendance**

A. At redetermination a school-age child who has missed more than 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. School-age, for purposes of this requirement, is defined as a child who is age 7 through 16. If, however, a child starts school at the kindergarten level before age 7, he is considered to be a school-age child at the point he starts kindergarten. If during the probationary period a child is absent from school for more than 3 days in a given calendar month without good cause, the child will be ineligible for the KCSP subsidy until documentation that the child's attendance meets the requirements is provided.

B. A child age 17 or 18 is eligible to receive assistance if attending school and working toward a high school diploma, GED, or special education certificate, or participating in or exempt from the FIND Work Program.

**AUTHORITY NOTE:** Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 26:

**§5337. Assignment of Support Rights and Cooperation with Support Enforcement Services**

**A. Assignment of Support Rights**

1. Each applicant for, or recipient of, KCSP is required to assign to the Louisiana Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting KCSP for, or on behalf of, a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are

received on behalf of such child or children or caretaker as reimbursement for the public assistance monies paid to such applicant or recipient.

**B. Cooperation with Support Enforcement Services**

1. Each applicant for, or recipient of, KCSP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient unless good cause is established.

2. Good cause exists when:

a. the client's cooperation with Support Enforcement Services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;

b. the child was conceived as a result of incest or rape;

c. legal proceedings for adoption are pending before a court; or

d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

a. failure to keep two consecutive appointments;

b. failure or refusal to cooperate at an interview;

c. failure to appear for, or cooperate during a court date or genetic testing.

5. The payee or recipient who has failed to cooperate will be notified in writing of the sanctioning. The payee or recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of KCSP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of KCSP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

**§5339. Parenting Skills Education**

As a condition of eligibility for KCSP benefits any child under age 19 who is a parent must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in

ineligibility for KCSP. Ineligibility will continue until compliance is demonstrated.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

**§5341. Drug Screening, Testing, Education and Rehabilitation Program**

A. Compliance. All recipients of KCSP benefits, age 18 and over, must satisfactorily comply with the requirements of the drug screening, testing, education and rehabilitation process.

B. Screening and Referral Process. All applicants for and recipients of KCSP age 18 and over will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a standardized drug abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD). An illegal drug is a controlled substance as defined in R.S. 40:961 et seq.- Controlled Dangerous Substance.

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

2. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs received from a reliable source, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

3. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OAD will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. If inpatient treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

D. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good

cause, will result in ineligibility of the recipient until he/she cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

E. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for KCSP benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

#### **§5343. Fleeing Felons and Probation/Parole Violators**

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

#### **§5345. Individuals Convicted of a Felony Involving a Controlled Substance**

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving KCSP for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

### **Subchapter C. Recovery**

#### **§5385. IV-D Recovery of Support Payments**

A. When assigned child support payments are received and retained by the KCSP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for KCSP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the KCSP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (KCSP) with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

Interested persons may submit written comments by December 28, 1999 to the following: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 28, 1999 at the Department of Social Services, A. Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning 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 Area Code 225-342-4120 (Voice and TDD).

#### **Family Impact Statement**

I. What effect will this rule have on the stability of the family? Implementation of the Kinship Care Subsidy Program will have a positive impact on the stability of eligible families by enhancing the ability of the caretaker relative to meet the financial needs of eligible children.

II. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children. Children will, however, be required to meet the school attendance requirements of the program in order to maintain eligibility.

III. What effect will this have on the functioning of the family? The functioning of the family will be positively impacted due to a reduction in the financial strain created by the child's presence in the home.

IV. What effect will this have on family earnings and family budget? There will be no impact on family earnings. There will be a favorable impact on the family budget.

V. What effect will this have on the behavior and personal responsibility of children? In order to maintain eligibility, children will be required to meet school attendance requirements which will have a positive impact on the child's behavior and personal responsibility.

VI. Is the family or local government able to perform the function as contained in this proposed rule? Assistance is provided to families which meet the financial eligibility requirements and are, thus, unable to fully meet the financial needs of eligible children. Assistance which may be provided by local governments is considered in determining eligibility.

Gwendolyn P. Hamilton  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Kinship Care Subsidy  
Program—Implementation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs as a result of the Kinship Care Subsidy Program (KCSP) are estimated to be \$1,892,840 in FY 99/00 and \$5,678,520 in FY 00/01 and 01/02. Projections are based on an estimated number of 4,640 children who will be eligible for this program. Further assumptions are: 1/3 of these eligibles will be new recipients and will receive \$172 per month per child, 1/3 are already FITAP eligible and will receive an additional \$100 per month per child, and 1/3 will have the caretaker relative included in the FITAP grant and will receive an additional \$34 per month. (FITAP is the Family Independence Temporary Assistance Program). KCSP benefits will be paid from the Louisiana Temporary Assistance for Needy Families (TANF) block grant which is federally funded.

There are no costs 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)**

Amounts estimated in Section I represent the KCSP subsidy paid to the eligible recipients. There are no costs to these persons. There are no costs or benefits to nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will have no impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9911#073

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

Support Enforcement—Income Assignment  
(LAC 67:III.2509)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to R.S. 46:236.3, the agency proposes to amend regulations redefining the types of income available for assignment and increasing the processing fee which the payor of income may include as a deduction to the noncustodial parent's income assignment. The agency neglected to update §2509 at the time of 1997 and 1998 legislative actions.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 4. Support Enforcement Services**

**Chapter 25. Support Enforcement**

**Subchapter B. Support Obligation**

**§2509. Income Assignment**

A. In all new or modified child support orders enforced by SES, the court shall order an immediate income assignment unless a written agreement exists between the parties for an alternate arrangement, or the court finds good cause not to require an immediate income assignment. Employers shall remit any amounts withheld through income assignment within seven days.

B. In any case in which SES is providing services, if not previously subject to income assignment, the order shall become subject to withholding, if arrearages occur, without the need for a judicial or administrative hearing. Orders enforced by SES will be subject to withholding without advance notice to the obligor. The payor of income is notified to withhold an amount for current support plus an additional amount, determined by SES toward any arrears owed. The amount subject to be withheld cannot exceed the percentage of disposable income as defined in R.S. 13:3881 or the federal wage garnishment.

C. The forms of income available for assignment include any singular or periodic payment to an individual regardless of source, including but not limited to, wages, salary, interest, commission, independent contractor compensation, disability income, unemployment compensation, worker's compensation, bonuses, judgments, settlements, annuity and retirement benefits, and any other payments made by any person, private entity, federal, or state government, any unit of local government, school district, or any entity created by public act.

D. The payor of income may deduct a \$5 processing fee from the noncustodial parent's income each pay period during which the income assignment order is in effect. If the payor of income discharges, disciplines, or otherwise penalizes a person ordered to pay support because of the

duty to withhold income, the payor of income may be liable for the accumulated amount or be subjected to other sanctions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:236.3 and 45 CFR 303.100, P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:809 (October 1989), LR 16:33 (January 1990), amended by the Office of Family Support LR 23:748 (June 1997), LR 26:

All interested persons may submit written comments through December 28, 1999, to: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing will be held on the proposed rule on December 28, 1999, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 70802, beginning 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 Area Code 225-342-4120 (Voice and TDD).

#### **Family Impact Statement**

1. What effect will this rule have on the stability of the family? The proposed rule will not directly affect the stability of the family but may enhance the collection of child support. An improved financial situation should have a positive effect on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The changes in the income assignment procedure could result in an increase in child support collections for some families. If a significant increase occurs for a family, it could relieve financial stress and enhance that family's quality of life.

4. What effect will this have on family earnings and family budget? This rule will not directly affect the family earnings but could improve a family's financial situation if the rule results in the collection of child support.

5. What effect will this have on the behavior and personal responsibility of children? This rule should not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? Based on state law, this rule allows state government to include additional sources or forms of income for assignment and gives a slight increase in the processing fee for payors of income; neither the family nor local government could perform these actions.

Gwendolyn P. Hamilton  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Support Enforcement Services- Income—Assignment**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The only cost of implementation is the minimal cost of printing policy revisions and publishing the rulemaking. No savings to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of the state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Noncustodial parents who are subject to income assignment are charged an additional \$2.00 processing fee. There is no cost or benefit to any nongovernmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9911#056

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Crab Trap Marking (LAC 76:VII.345)**

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following rule on the marking of crab traps.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 3. Saltwater Sports and Commercial Fishing §345. Crab Trap Marking**

A. Each crab trap shall be marked with a 1/2-inch stainless steel self-locking tag attached to the center of the trap ceiling, or a durable plastic bait-box cover. Said tags shall be supplied by the fishermen and shall have the commercial fisherman's license number (not the commercial gear license) or the recreational crab trap gear license number legibly embossed or engraved thereon.

B. For the purposes of R.S. 56:8(28.1) which specifies that a serviceable trap must be "legally marked with a float", each trap shall be attached by a 1/4 inch minimum diameter, non-floating line to a solid float six inches minimum diameter, or equivalent. Crab traps attached to a trotline must also have such a float and line attached to at least one end. For the purposes of R.S. 56:332.G, a common float is defined as a 1 gallon or larger all-white plastic bleach bottle.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:8(28.1), R.S. 56:332.D and R.S. 56:332.G.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended 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 written comments of the proposed rule to Mr. Mark Schexnayder, Crustacean Programs Manager, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898, no later than 4:30 p.m., Wednesday, January 5, 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).

Bill A. Busbice, Jr.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Crab Trap Marking**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Enforcement agents presently enforce commercial fishing regulations as part of their duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule should have 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)

The proposed rule establishes an alternative method to mark crab traps and defines what is legal float for a crab trap. It should benefit crab fishers since they will be able to recover crab traps that may have lost their floats and eases the burden of some fishermen by not having to mark their traps twice. No cost increase is anticipated to occur as a result of the proposed action, since all fishermen mark their traps with floats anyway.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the private or public sector.

James L. Patton  
Undersecretary  
9911#019

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office



# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Retail Floristry Examination

The next retail floristry examinations will be given January 24-28, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is December 10, 1999. No applications will be accepted after December 10, 1999.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to December 10, 1999. Questions may be directed to (225) 925-7772.

Bob Odom  
Commissioner

9911#007

## POTPOURRI

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

#### Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the national and state examination for licensure to practice veterinary medicine on the following dates:

Examination	Date	Deadline to Apply
National Board	Second Tuesday of April Tuesday, April 11, 2000	Friday, February 18, 2000
Clinical Competency Test	Second Wednesday of April Wednesday, April 12, 2000	Friday, February 18, 2000
State Board	First Tuesday of Every Month March 7, 2000 April 4, 2000 May 2, 2000 June 6, 2000 July 11, 2000* August 1, 2000	Third Friday prior to exam date desired February 18, 2000 March 17, 2000 April 14, 2000 May 19, 2000 June 23, 2000 July 14, 2000

\*The July SBE will be held on the second Tuesday of the month due to a holiday.

Applications for all examinations must be received on or before the deadline. Applications and information may be

obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 or by calling (225) 342-2176.

Kimberly B. Barbier  
Administrative Director

9911#062

## POTPOURRI

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

#### Medicaid Conference

The Department of Health and Hospitals is hosting a one day Medicaid Conference to solicit ideas on improving the delivery of Medicaid services. The Conference will be held Thursday, December 17 from 9:00 a.m. to 3:30 p.m. at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA 70809 in the Wade O. Martin, Jr. Auditorium.

The Department solicits conceptual presentations on improving current Medicaid services while assuring access to quality care delivered in more efficient and effective ways. Presenters should include key components of their idea including the new method of delivering services and the advantages over the existing system of care.

Participants will be limited to ten minute presentations and are asked to submit a written summary of no more than three pages. Presentation times will be on a first call, first scheduled basis; the phone number is (225) 342-3807.

Those unable to participate in the conference, may submit a paper to the Department of Health and Hospitals, Madeline McAndrew, Executive Director, Division of Research and Development, P.O. Box 2870, Baton Rouge, LA 70821-2870.

David W. Hood  
Secretary

9911#061

## 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
Berkshire Oil	Golden Meadow	Exavier Malgom et	001	023760

Company		al		
Berkshire Oil Company	Golden Meadow	Ex Malmgo et al	002	023761
B & J Oil	Caddo Pine Island	P B McDade	001	154130
Bronco Energy	South Bayou Mallet	C Frey Stefanski	001	171114
Douglas Edwards	Golden Meadow	J Cheramie	014	990426
Jim Joel Elliott	Grogan	Ruffin	001	066804
Jim Joel Elliott	Grogan	Ruffin	002	067581
Jim Joel Elliott	Grogan	Ruffin	003	065644
Jim Joel Elliott	Grogan	Ruffin	004	067690
General American Oil Co. of TX	North Crowley	NOD 1-B RA SUE; Ronkartz	003	137294
Georgetown Oil Co.	Tullos-Urania	Montague Oil Co	A-1	022304
F. E. Hargraves & Sons Dr. Co. Inc.	Caddo Pine Island	Land D	002	036676
KLH, Inc.	Vixen	HOSS 7770 RA SUA; Schleif	001	171913
Gordon M. LeBlanc	Monroe	L E Patrick	001	084025
Panhandle Refining Company	Wildcat	Mansfield Hdw Lbr Co	001	031851
Petrosun E&P, Inc.	Lake End	Dollye Belle Legrande	003	222877
Petrosun E&P, Inc.	Lake End	Dollye Belle Legrande	002	222742
Smackover Producing Co.	Pendleton-Many	W C Ford	002	095458
Texas Gulf Sulphur Co.	Unknown	P K Kelley	001	010861
Texas Gulf Sulphur Co.	Clovelly	Humble-Shell Fee	008	047129
Unknown	Tullos-Urania	Urania Lbr Co	A-1	009821

Philip N. Asprodites  
Commissioner

9911#072

**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 139 claims in the amount of \$220,267.72 were received during the period November 1998-October 1999. There were 113 claims paid and 11 claims denied.

Loran Coordinates of reported underwater obstructions are:

26594	46978	Cameron
26652	46979	Cameron
26657	46978	Cameron
26669	46977	Cameron
26701	46777	Cameron
26804	46971	Cameron
26913	46967	Cameron
26971	46958	Cameron
27020	46950	Vermilion
27241	46926	Vermilion
27371	46975	Vermilion
27425	46956	Vermilion
27657	46932	St Mary
27770	46873	Terrebonne
27806	46875	Terrebonne
27810	46870	Terrebonne
27897	46862	Terrebonne
27922	46852	Terrebonne
27955	46835	Terrebonne
27977	46834	Terrebonne
27989	46832	Terrebonne
28106	46836	Terrebonne
28136	46846	Terrebonne
28141	46858	Terrebonne
28149	46841	Terrebonne
28156	46865	Terrebonne
28190	46852	Terrebonne
28271	46824	Lafourche
28293	46842	Lafourche
28353	46829	Lafourche
28400	46887	Lafourche
28561	46855	Jefferson
28562	46863	Jefferson
28618	46864	Jefferson
28639	46866	Plaquemines
28710	47034	Jefferson/Orleans
28780	46847	St Bernard
28791	47012	St Bernard
28875	46799	Plaquemines
28957	46892	Plaquemines
29054	46915	Plaquemines
29072	46925	Plaquemines
29077	46831	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

9910#053

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