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This public document was published at a total cost of \$5,720.00. Eight hundred fifty (850) copies of this public document were published in this monthly printing at a cost of \$3,720.00. The total cost of all printings of this document including reprints is \$5,720.00. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:30. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

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

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

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

This declaration of emergency is effective September 14, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

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

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

§703. Establishing Eligibility

A. - A.4.g. ...

5.a. graduate from a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3; and

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or Comparable Advanced Math
1	Biology I

1	Chemistry I
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics, Physics II or Physics for Technology
1	American History
1	World History, World Culture, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art or Visual Art; or one elective from among the other subjects listed in this core curriculum)
2	In the Same Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

ii. for purposes of satisfying the requirements of §703.a.5.a.i, above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course

Physical Science
Algebra I, Algebra II and Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics
Fine Arts Survey
Western Civilization
Equivalent (Substitute) Course
General Science
Integrated Mathematics I, II and III
Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics
Speech Debate (2 units)
European History

or

A.5.b. - G.2. ...

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

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

Chapter 8. TOPS-TECH Award §803. Establishing Eligibility

A. - A.6.c. ...

d. for purposes of satisfying the core curriculum requirements for a TOPS-Tech award, a student may substitute for a core curriculum course those courses listed as equivalent courses in §703.A.5.a.ii.

A.7. - 11. ...

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

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

Jack L. Guinn
Executive Director

9910#005

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS)—Scholarship and Grant Program
(LAC 28:IV. 103, 301, 701-705,
803, 805, 903, 907, 1701, 2101)

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

The emergency rules are necessary to implement the new statutory provisions of Acts 438, 805, and 1302 adopted during the 1999 Regular Session of the Legislature and to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective September 14, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 1. Scope

§103. Purpose

A. - C. ...

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM). SGPM will cover additions, deletions, revisions and clarifications to the rules and regulations. In compliance with Act 1302 of the 1999 Regular Session of the Legislature, SGPM shall be mailed to the President and Superintendent of each City and Parish School Board in the State, the principal of each high school in the state for distribution to all high school counselors at each high school, the Chancellor, Director of Financial Aid, and Business Office of each public postsecondary school in the state, and the Chancellor, Director of Financial Aid, and Business Office at each regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 24:632 (April 1998), LR 24:1897 (October 1998), LR 25:

Chapter 3. Definitions §301. Definitions

* * *

Award Amount—an amount equal to Tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "Cost of Attendance."

* * *

Cumulative High School Grade Point Average—the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted. Effective for high school graduates in the academic year 2002-2003, the Cumulative High School Grade Point Average shall be calculated by using only the course grades achieved for those courses included in the core curriculum and recorded on the official transcript reported to the Louisiana Department of Education. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade. For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$
$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying, $5X = 12$; $X = 2.40$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

* * *

Eligible Noncitizen—an individual who can provide documentation from the Immigration and Naturalization Service (INS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the U.S. must provide documentation from the INS to verify permanent residency. For 1997, 1998, and 1999 high school graduates, an Eligible Noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

* * *

Louisiana Resident—

a. any independent student or any dependent student with at least one parent or legal guardian who has resided in the state for a minimum of 24 consecutive months immediately preceding a certain date or the date of a specified event that is further defined by the programs found in Part IV of these rules, or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or legal guardian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voters registration card; and
- ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- iv. if earning a reportable income, a Louisiana tax return.

b. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv. above;

c. any member of the Armed Forces who is stationed in Louisiana under permanent change of station orders and who, not later than sixty days after reporting to such station, changes his military personnel records to establish Louisiana as his official home of record, and complies with all Louisiana income tax laws and regulations while stationed in Louisiana. A copy of a completed residency affidavit and a DD Form 2058 validated by the member's military personnel officer and showing Louisiana as the member's state of legal residence, must be submitted to the Louisiana Office of Student Financial Assistance (LOSFA) at the time the service member's dependent applies for TOPS. The DD Form 2058 must reflect that it was filed within sixty days after the member reported to duty at a duty station in Louisiana.

* * *

*Steady Academic Progress—*the maintenance of a minimum cumulative grade point average of 2.00 on a 4.00 scale. Students will be required to maintain Steady Academic Progress effective for the beginning of the 1999 Fall Semester.

* * *

*Undergraduate Student—*a student who has not completed the requirements for a baccalaureate degree program and/or is not classified as a professional student for the purposes of receipt of federal student aid.

*Weighted Average Award Amount—*for those students attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities, the total dollar value of awards made under TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1418 (August 1999), LR 25:

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

§701. General Provisions

A. - E.4. ...

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU) receive an amount equal to the Weighted Average Award Amount, as defined in §301, plus any applicable stipend.

E.6. - E.9. ...

10. Award Amounts shall be credited to a student's account with the institution and shall be used consistent with the institution's policy, and as directed by the student, to pay for those educational expenses included in the Cost of Attendance.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), LR 24:635 (April 1998), LR 24:1901 (October 1998), LR 25:256 (February 1999), LR 25:

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. be a U.S. citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not willful, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will

be suspended until such time as proof of citizenship is provided;

A.2. - C. ...

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall receive the award requiring the most rigorous eligibility criteria, unless the student chooses to receive the TOPS Tech Award. The student will be deemed to have chosen the TOPS Tech Award if that student enrolls in a non-academic program of study pursuing a skill or occupational training at a Louisiana public postsecondary school. Once a student has enrolled in a skill or occupational training program, the student's choice of the TOPS Tech Award will be irrevocable.

E. - G.2. ...

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

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

§705. Maintaining Eligibility

A. - A.7. ...

8. maintain Steady Academic Progress as defined in §301.

A.9. - A.9.b. ...

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.a.9.b., but who meet the continuation requirements of §705.A.9.a., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award. To be reinstated, the student must request reinstatement for the semester following the lifting of academic probation and/or the achievement of the required GPA by submitting a written request to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and enclosing a certified original transcript from the school attended. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

C. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), LR 24:637 (April 1998), LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 25:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. be a U.S. citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was

not willful, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided;

A.2. - 11. ...

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

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

§805. Maintaining Eligibility

A. - A.7. ...

8. maintain Steady Academic Progress as defined in §301.

A.9. ...

B. Students failing to meet the requirements listed in §805.A.8 and 9 may have their tuition awards reinstated upon achieving Steady Academic Progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 25:

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not willful, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided;

A.2. - 9. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 23:1650 (December 1997), amended LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 25:

§907. Maintaining Eligibility

A. - A.3. ...

4. maintain Steady Academic Progress as defined in §301:

A.5. - 9. ...

B. Recipients who do not maintain eligibility under the provisions of §907.A.3 and 4, may be reinstated upon attainment of the required GPA and achieving the GPA required for Steady Academic Progress, as defined in §301, provided the period of ineligibility did not exceed two years.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 23:1650 (December 1997), amended LR 24:638 (April 1998), LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 25:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. - A.1. ...

2. Approved Nonpublic High Schools - nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) pursuant to R.S. 17:11 which meet the standards required by BESE for students of the school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement. The approvals by BESE may be provisional or probational approvals.

A.3. - A.3.d. ...

4. Out-of-State High Schools

a. All other public or non-public high schools located in one of the United States *or territories of the United States*, other than Louisiana, which have been approved by the state or territory's chief school officer as listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's or territory's equivalent of the Louisiana Board of Elementary and Secondary Education (BESE), *or which high school has been approved by the Southern Association of Colleges and Schools Commission on Secondary and Middle Schools and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above*, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

A.4.a.i. - B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17: 959 (October 1991), amended LR 22:338 (May 1996), amended

LR 24:642 (April 1998), LR 24:1911 (October 1998), LR 25:849 (May 1999), LR 25:

Chapter 21. Miscellaneous Provisions and Exceptions **§2101. Academic Suspension of Awards and Reinstatement**

A. Students denied an award for their failure to maintain the required cumulative grade point average or for their failure to maintain Steady Academic Progress, as defined in §301, may be reinstated upon attainment of the required cumulative grade point average, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated are ineligible for annual stipends.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 24:646 (April 1998), LR 24:1915 (October 1998), LR 25:

Jack L. Guinn
Executive Director

9910#006

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS)—Teacher Award
(LAC 28:IV.901, 909, 911)

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

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

This declaration of emergency is effective September 14, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs **Chapter 9. TOPS Teacher Award** **§901. General Provisions**

A. ...

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level

in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teacher, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state as defined by the U.S. Department of Education;

B.2. - C.6. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:

§909. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program Promissory Note by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an *economically disadvantaged region* of the state, as defined by the U.S. Department of Education, teach one year for every two years of funding received, or repay the funds received, plus accrued interest and any collection costs incurred.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of the Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:

§911. Discharge of Obligation

A. - B.1. ...

2. each year of full-time service as a teacher will fulfill an equivalent period of funding. However, if teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state, as defined by the U.S. Department of Education, one year of teaching will fulfill two years of funding;

B.3. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:

Jack L. Guinn
Executive Director

9910#004

DECLARATION OF EMERGENCY

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

Fee Schedule

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 of Trustees hereby invokes the Emergency Rule provisions of La R.S. 49:953(B).

Failure to adopt this rule on an emergency basis will result in a 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 October 29, 1999, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Emergency 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 60th 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.

A. Kip Wall
Interim Chief Executive Officer

9910#080

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Pollution Control—Statewide Order No. 29-B
(LAC 43:XIX.129)

Order requiring testing of exploration and production (E&P) waste upon receipt by a commercial facility, and

identification of acceptable storage, treatment and disposal methods for certain E&P waste types.

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefor are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by continuing a procedure for testing E&P waste after receipt at a commercial facility and identifying acceptable storage, treatment and disposal methods for certain E&P wastes at commercial facilities.

Need and Purpose

Certain oil and gas exploration and production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana State regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for storage, treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted the Commissioner of Conservation to issue a first Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at permitted commercial E&P waste disposal facilities within the State of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998 Emergency Rule that sampling and testing should be extended for an additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a Second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The second Emergency Rule required continued comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the terms of the first and second Emergency Rules, approximately 1,800

E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, determined that the number of raw data sets of E&P waste types, along with other published analytical

results of E&P waste testing, provided adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation was unnecessarily redundant, and was discontinued. The Third Emergency Rule adopted on October 1, 1998 required continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in Section D. Such continued testing was required to assure that E&P waste shipments received for disposal at commercial facilities were consistent with evolving E&P waste profiles.

A Fourth Emergency Rule, adopted January 29, 1999, and a Fifth Emergency Rule, adopted May 29, 1999, provided requirements for continued testing of all E&P waste shipments received for disposal at commercial E&P waste disposal facilities, as well as identifying acceptable methods of storage, treatment and disposal of certain E&P waste types at such commercial facilities. However, since evaluation of data generated by Emergency Rules 1 and 2 has not been completed and a permanent rule has not been promulgated, it is necessary to adopt a Sixth Emergency Rule, effective September 26, 1999, to continue the requirements of the Fourth Emergency Rule.

Concurrent with implementation of this Emergency Rule, the Office of Conservation will continue development of a permanent rule for the management and disposal of E&P waste at commercial facilities within the State of Louisiana. Best E&P waste management practices, based on established E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific storage, treatment and disposal options for the various categories of E&P waste.

Synopsis

1. E&P Waste Will be Transported With Identification

Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers;
- 2) stored in enclosed tanks at a commercial facility; and
- 3) disposed by deepwell injection.

Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Each Load of E&P Waste Will Be Tested At Commercial Facility

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each load of E&P waste shall be sampled for required parameters. Additionally, the

presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

3. Identification of Acceptable Storage, Treatment and Disposal Methods (Options) for E&P Waste

It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. This Fifth Emergency Rule requires that injection in Class II wells, after storage in a closed system, shall be utilized for Waste Types 01 and 14. The remainder of the E&P waste types are currently under study to confirm acceptable storage, treatment and disposal methods. Any additional acceptable storage, treatment and disposal methods will be promulgated in the near future.

Reasons

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, and by the identification of acceptable storage, treatment and disposal methods for certain types of E&P waste, it has been determined that failure to establish such procedures and requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing is performed and acceptable storage, treatment and disposal methods for certain types of E&P waste are employed at commercial facilities. The Emergency Rule, Amendment to Statewide Order No. 29-B (Emergency Rule) set forth hereinafter, is now adopted by the Office of Conservation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation - General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§129. Pollution Control

M. Off-site Storage, Treatment and/or Disposal of E & P Waste Generated From Drilling and Production of Oil and Gas Wells

1. Definitions

Commercial Facility—a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term "transfer station".

Exploration and Production (E&P) Waste—drilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following:

Waste Type	Waste Description
01	salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations
02	oil-base drilling mud and cuttings
03	water-base drilling mud and cuttings
04	workover and completion fluids
05	production pit sludges
06	production storage tank sludges
07	produced oily sands and solids
08	produced formation fresh water
09	rainwater from ring levees and pits at production and drilling facilities
10	washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material
11	washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material
12	natural gas plant processing (E&P) waste which is or may be commingled with produced formation water
13	waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases
14	pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	salvageable hydrocarbons
99	other approved E&P waste

NOW—exploration and production waste

M.2. - 5. ...

i. Receipt, Sampling and Testing of E&P Waste

i. ...

ii. Testing Requirements

(a). Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

(i). pH, electrical conductivity (EC - mmhos/cm) and chloride (Cl) content; and

(ii). The presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX;

(iii). The sample temperature (degrees Fahrenheit) representing actual testing conditions of the sample obtained for BTEX analysis by methodology that will assure sufficient accuracy; and

(iv). The presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX, BTEX sample temperature and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

(c). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H₂S measurement in (a) above if the following conditions are met:

(i). if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and

(ii). if stored in an enclosed container at a commercial facility; and

(iii). if disposed by deep well injection.

(d). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in 129.M.6.d.

M.5.i.iii. - 5.I. ...

m. It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The following chart includes acceptable and required storage, treatment and disposal methods for each type of E&P waste disposed of at commercial facilities within the State of Louisiana:

Waste Type	Required Storage, Treatment and Disposal Method(s)
01	Injection in Class II well utilizing a closed system
02	(reserved)
03	(reserved)
04	(reserved)
05	(reserved)
06	(reserved)
07	(reserved)
08	(reserved)
09	(reserved)
10	(reserved)
11	(reserved)
12	(reserved)
13	(reserved)
14	Pipeline test water - Injection in Class II well utilizing a closed system Pipeline pigging waste - (reserved)
15	(reserved)
16	(reserved)
50	Commercial salvage oil facility
99	(reserved)

M.6. - S. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July 1980), amended LR 8:79 (February 1982), LR 9:337 (May 1983), LR 10:210 (March 1984), LR 12:26 (January 1986), LR 16:855 (October 1990), LR 17:382 (April 1991), LR 25:

Summary

The Emergency Rule hereinabove adopted evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare of the citizens of Louisiana, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide

Order No. 29-B will be developed in the immediate future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the State of Louisiana, the attorney general of the State of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the State Register of the adoption of this Emergency Rule and reasons for adoption.

Effective Date and Duration

1. The effective date for this emergency rule shall be May 29, 1999.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an Amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Signed at Baton Rouge, Louisiana, this 1st day of June, 1999.

Philip N. Asprodites
Commissioner

9910#032

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Hunting Regulations—Biloxi and Pearl River WMAs

In accordance with the emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following emergency rule.

Biloxi Wildlife Management Area

Waterfowl: Same as outside

Pearl River Wildlife Management Area

Muzzleloader: December 4-10

A Declaration of Emergency is necessary to allow all day waterfowl hunting on Biloxi during times when ducks are available and to prevent potential enforcement problems on Pearl River WMA that would result from the overlapping of the muzzleloader and modern firearm season. The

forementioned shooting hours and adjustments in the muzzleloader season will become effective November 13, 1999 and extend through sunset on March 10, 1999.

Bill A. Busbice, Jr.
Chairman

9910#035

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark 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. 56:6(25)(a) and R.S. 56:326.3 which provide 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 rule LAC 76:VII.357.A.12.b which allows the Secretary to declare a closed season when he is informed that the commercial large coastal shark seasonal quota for that species group and fishery has been met in the Gulf of Mexico, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent Federal waters, and to modify any such closure order to maintain consistency with re-opening dates in the adjacent Federal waters, should the Federal closure dates be modified, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective October 1, 1999, the commercial fishery for large coastal sharks in Louisiana waters, as described in

LAC 76:VII.357.A.1.b (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, bignose shark, blacktip shark, bull shark, Caribbean reef shark, dusky shark, Galapagos shark, lemon shark, narrowtooth shark, night shark, sandbar shark, silky shark, spinner shark and tiger shark) will open and remain open through 11:30 p.m., October 15, 1999. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with the closure, no person shall commercially harvest, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof. Also effective with the closure, no person shall possess large coastal sharks 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 large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5.

The Secretary has been notified by the National Marine Fisheries Service that the second semiannual subquota for large coastal sharks has not been reached and that the Federal season modification is necessary to ensure adequate opportunity for eligible fishery participants to harvest the available quota and to ensure that the adjusted semiannual quota for large coastal sharks for the period July 1 through December 31, 1999 is not exceeded.

James H. Jenkins, Jr.
Secretary

9910#022

Rules

RULE

Department of Economic Development Used Motor Vehicle and Parts Commission

Commission Meetings; Motor Vehicle Trade Shows
(LAC 46:V.2701, 3601, 3603, and 3605)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission has adopted the following rules and regulations regarding motor vehicle trade shows.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 27. The Used Motor Vehicle and Parts Commission

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 1 P.M. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999).

Chapter 36. Motor Vehicle Trade Shows

§3601. Definitions

* * *

Promoter—means any Louisiana resident, domestic firm, association, corporation, or trust, who alone or with others assumes the financial responsibility of a vehicle trade show or exposition in which vehicles are displayed by dealers, manufacturers or distributors, licensed under R.S. 32:773.

Trade Show—means a controlled event in which a promoter charges or barter for booth space and/or charges for spectator entrance in which 3 or more used motor vehicle dealers exhibit vehicles.

* * *

Vehicle—means any new or used motor home, motorcycle, motor scooter, ATV, watercraft, boat, or boat with an inboard or outboard motor attached and shall also include new and used trailers, recreational trailers, semi-trailers and travel

trailers. Motor manufacturer of motor homes, motorcycles, motor scooters, ATV's, watercraft, boats, or a boat with an inboard or outboard motor attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), LR 25:1792 (October 1999).

§3603. License, Fees and Applications

A. - A.3. ...

4. A promoter shall also be required to obtain a permit for any trade show or exposition from the LUMVPC.

5. A permit fee of \$50.00 will be charged for each show.

B. - C.1. ...

2. A licensed used motor vehicle dealer who participates in a motor vehicle show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any permit fees.

D. All applications for permits received within 5 days of the start of the trade show or exposition shall be charged a \$50.00 late processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended by LR 19:1021 (August 1993), LR 25:1792 (October 1999).

§3605. Qualifications and Eligibility of Motor Vehicle Trade Shows

A. Promoters of motor vehicle trade shows or expositions in which a dealer, manufacturer, or distributor, which is required to be licensed under R.S. 32:773, displays vehicles, are required to obtain a permit from the LUMVPC no later than 60 days prior to the start date of the vehicle trade show and shall give the start date, ending date, location of the proposed trade show or exposition, and the type of vehicles to be promoted.

B. Within 10 days of the start of the event, the promoter shall also furnish a complete list of all licensed Louisiana dealers who will participate. This list shall also include the dealer's current dealer number.

C. - C.3. ...

D. If the majority of local Louisiana licensed dealers in a trade show area decline to attend, the commission shall have the authority to prohibit any trade show.

E. A promoter is required to keep all records of attending dealers and all records of dealers that have declined to attend a trade show or exposition for a period of 5 years.

F. A manufacturer or distributor may exhibit vehicles through a licensed dealer and may only display suggested list price.

G. A minimum of 3 Louisiana dealers will be required for all trade shows. Of the 3 Louisiana dealers, each dealer must represent a separate company or corporation.

H. Any promoter who violates any provisions of these rules and regulations shall be subject to the civil penalties under R.S. 32:780.

I. The executive director may, upon approval by the commission, suspend or modify any portion or portions of these rules and regulations herein when it is in the best interest of the community in which the trade show is being held.

J. The commission may deny an application for a permit for any licensed used motor vehicle dealer or manufacturer for any reason it feels to be in the best interest of the trade show to be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E and 32:774E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:114 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999).

John M. Torrance
Executive Director

9910#045

RULE

**Department of Economic Development
Used Motor Vehicle and Parts Commission**

**Exemptions on Selling Extended Warranties
(LAC 46:V.4103)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission has amended the following rules and regulations regarding vehicle service contracts.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 41. Condition of Sale of a Motor Vehicle

§4103. Sale and Marketing of Motor Vehicle

Performance Warranty Contracts

A - E.5. ...

6. If an Issuer is selling an extended performance warranty to a consumer who is purchasing a new motor vehicle with a manufacturer's warranty from a used motor vehicle dealer and offers a 90 day or more refund of the purchase price of the extended performance warranty, the Issuer shall be exempt from E.4, E.5, E.5.a, E.5.b and E.5.c.

F - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts

Commission, LR 15:466 (June 1989), amended LR 25:1793 (October 1999).

John M. Torrance
Executive Director

9910#039

RULE

Board of Elementary and Secondary Education

**Bulletin 741—Minutes Requirement
for 1/2 Carnegie Unit of Credit (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 the number of minutes required for a one-half (1/2) Carnegie unit of credit: the minimum length of any high school class in which one-half (1/2) Carnegie unit of credit is earned shall be no less than one-half (1/2) of the total minutes required for one (1) full Carnegie unit of credit.

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

Standard 2.037.11:

The minimum length of any high school class in which one-half (1/2) Carnegie unit of credit is earned shall be no less than one-half (1/2) of the total minutes required for one (1) full Carnegie unit of credit.

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 LR 25:1793 (October 1999).

Weegie Peabody
Executive Director

9910#076

RULE

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

Loan Guarantee Fund

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends its fee schedule as follows:

Loans Guaranteed Before May 5, 1999 1 percent of loan principal

Loans Guaranteed on or after May 5, 1999 No Fee

Jack L. Guinn
Executive Director

9910#003

RULE

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

Student Tuition and Revenue Trust (START Saving)
Program (LAC 28:VI.107, 301, 307)

The Louisiana Tuition Trust Authority (LATTA) amends rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

Title 28

EDUCATION

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

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999).

Chapter 3. Education Savings Account

§301. Education Assistance Accounts (EAA)

A. ...

B. Program Enrollment Period. An account may be opened and an eligible beneficiary may be enrolled at any time during the calendar year. Tuition Assistance Grants shall be allocated only to those accounts which have been opened by November 1 of the calendar year preceding the allocation.

C. - J. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:1269 (July 1998), LR 25:1794 (October 1999).

§307. Allocation of Tuition Assistance Grants

A. - E.3. ...

4. have an account owner who is a resident of the State of Louisiana, as defined in §107 in the year for which a tuition assistance grant is disbursed.

F. - G. ...

H. Restriction on Use of Tuition Assistance Grants

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

2. Tuition assistance grants may not be used to pay for any qualified higher education expenses other than tuition.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999).

Jack L. Guinn
Executive Director

9910#001

RULE

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

Tuition Opportunity Program for Students
(TOPS) (LAC 28:IV.301, 703, 803, 2115)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

Eligible Non-Louisiana High School and Eligible Out of State High School—see §1701.A.3 and 1701.A.4, respectively.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:1794 (October 1999).

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

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. - 5.a....

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III

- 1 English IV
- 1 Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
- 1 Algebra II
- 1 Geometry, Trigonometry, Calculus or Comparable Advanced Math
- 1 Biology I
- 1 Chemistry I
- 1 Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics, Physics II or Physics for Technology
- 1 American History
- 1 World History, World Culture, Western Civilization or World Geography
- 1 Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
- 1 Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art or Visual Art; or one elective from among the other subjects listed in this core curriculum)
- 2 In the Same Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
- ½ Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

or

b. graduate from a BESE approved, provisionally-approved or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1701.A.3 and have completed the core curriculum defined in §703.A.5.a.i, unless the following exceptions apply:

i. ...

ii. for a Disabled Student or an Exceptional Child, as defined in §301, who have met the criteria set forth in §2115, one or more core units are waived;

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24: 2237 (December 1998), LR 25:1794 (October 1999).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A.1. - 6.b. ...

c. for a student who is a Disabled Student or an Exceptional Child, as defined in §301, one or more core units may be waived if the student has met the criteria set forth in §2115;

7.a. ...

b. if qualifying under §703.A.5.b, c, or d, the state's reported prior year average ACT composite score, rounded, plus 3 points, but never less than 22; and

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance,

LR 24:632 (April 1998), amended LR 24:1904 (October 1998), LR 24: 2237 (December 1998), LR 25:1795 (October 1999).

Chapter 21. Miscellaneous Provisions and Exceptions
§2115. Procedures for Disabled Students and Exceptional Children

A. As provided for in §703.A.5.b.ii, a core curriculum course shall be waived for a student who is a Disabled Student or an Exceptional Child, as defined in §301, whose school certifies that it has the following documentation:

1. For a student claiming the status of a Disabled Student:

a. a written diagnosis from a person licensed or certified to diagnose the disability of the student, which diagnosis specifies the need for special accommodation by the student's high school; and

b. a written statement from the principal of the high school that a plan of accommodation under Section 504 of the Rehabilitation Act of 1973 (§504 Plan) has been established, and the high school was unable to provide the special accommodation, or, if the special accommodation was provided by the high school, the failure to complete the specified core curriculum course was due solely to the student's diagnosed disability.

2. For a student claiming the status of an Exceptional Child:

a. a written Individual Education Program (IEP) in accordance with R.S. 17:1941 et seq. and Louisiana Department of Education Bulletin 1706; and

b. a written statement from the principal of the high school that the failure to complete the specified core curriculum course was due solely to the student's exceptionality.

B. For Disabled Students graduating prior to the 1999-2000 high school academic year and who are requesting a waiver of a core curriculum course based upon their status as a Disabled Student, those students must provide the documentation provided in §2115.A.1, above, however, those students need not establish the existence of a 504 Plan.

C. A school official must obtain the consent from the student's parent or legal guardian, as required by law, prior to the release of information concerning a student who is requesting a waiver of a core course by reason of that student being a Disabled Student or an Exception Child.

D. If a core curriculum course is waived based upon the determination that a student's disability or exceptionality, then the grade achieved for that course will not be included in the determination of the student's grade point average for purposes of qualifying for a TOPS award.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1795 (October 1999).

Jack L. Guinn
 Executive Director

9910#002

RULE

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

Graphic Arts (Printing) by Rotogravure and Flexographic Processes (LAC 33:III.2143)(AQ192)

(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 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 amended the Air Quality regulations, LAC 33:III.2143.A.1 and B (Log #AQ192).

This rule will make a grammatical correction and will clarify the applicability exemption in the regulations regarding the control of volatile organic compounds for the rotogravure and flexographic processes. The basis and rationale for this rule are to make a grammatical clarification and clarification of applicability.

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 III. Air**

Chapter 21. Control of Emission of Organic Compounds

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

* * *

[See Prior Text in A]

1. The solvent fraction of ink, as it is applied to the substrate, less exempt solvent, contains 25 volume percent or less of organic solvent and 75 volume percent or more of water. Also acceptable as an alternative limit is ink containing no more than 0.5 pounds of volatile organic compounds per pound of solids. Exempt solvents are those compounds listed in LAC 33:III:2117.

* * *

[See Prior Text in A.2-5]

B. Applicability Exemption. A rotogravure or flexographic printing facility that has the potential to emit at full production (8760 hours per year basis) a combined weight of volatile organic compounds of less than 50 TPY (in nonattainment areas) or 100 TPY (in attainment areas), calculated from historical records of actual consumption of ink, is exempt from the provisions of Subsections A and C of this Section and need only comply with Subsection D of this Section.

* * *

[See Prior Text in C-D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999).

James H. Brent, Ph.D.
Assistant Secretary

9910#017

RULE

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

Incorporation by Reference of 40 CFR Parts 60, 61, and 63 (LAC 33:III.3003, 5116 and 5122)(AQ194*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.3003, 5116, and 5122 (Log #AQ194*).

This rule is identical to a federal regulation found in 64 FR 7463-7468, February 12, 1999, No. 29, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates revisions to 40 CFR Part 60, Subparts A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA, and SSS; Part 61, Subparts A, L, and N; and Part 63, Subpart A as published in the Federal Register, February 12, 1999, volume 64, number 29, pages 7457 and 7463-7467. Also, revisions are made to clarify the date of the revised standards incorporated by reference in Chapters 30 and 51. The Department of Environmental Quality has program delegation authority from the US Environmental Protection Agency for 40 CFR Parts 60, 61, and 63. To obtain delegated authority for individual federal standards, the state must adopt the federal regulations into the Louisiana Administrative Code. Such action is taken at this time so that existing state and federal standards will reflect the same recordkeeping requirements. The basis and rationale for this rule are to mirror the federal regulations.

This rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

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

Subchapter A. Incorporation by Reference (IBR)

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

Part 60

* * *

[See Prior Text in A-Table 1.A]

B. Final regulations published in the *Federal Register* on February 12, 1999, and specified below in Table 2 are hereby incorporated by reference as they apply to the State of Louisiana.

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart/Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart A	General Provisions	64 FR 7463	February 12, 1999
Subpart D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971	64 FR 7464	February 12, 1999
Subpart Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978	64 FR 7464	February 12, 1999
Subpart Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units	64 FR 7464	February 12, 1999
Subpart Dc	Standards of Performance for Small Industrial - Commercial-Institutional Steam Generating Units	64 FR 7465	February 12, 1999
Subpart Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989, and on or Before September 20, 1994	64 FR 7465	February 12, 1999
Subpart J	Standards of Performance for Petroleum Refineries	64 FR 7465	February 12, 1999
Subpart CC	Standards of Performance for Glass Manufacturing Plants	64 FR 7466	February 12, 1999
Subpart NN	Standards of Performance for Phosphate Rock Plants	64 FR 7466	February 12, 1999

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart/Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart XX	Standards of Performance for Bulk Gasoline Terminals	64 FR 7466	February 12, 1999
Subpart AAA	Standards of Performance for New Residential Wood Heaters	64 FR 7466	February 12, 1999
Subpart SSS	Standards of Performance for Magnetic Tape Coating Facilities	64 FR 7467	February 12, 1999

* * *

[See Prior Text in C-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

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

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

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Federal Register* as promulgated February 12, 1999, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart A	64 FR 7457	February 12, 1999	General Provisions
Subpart L	64 FR 7457	February 12, 1999	National Emission Standard for Benzene Emissions from Coke By-Products Recovery Plants
Subpart N	64 FR 7457	February 12, 1999	National Emission Standards for Inorganic Arsenic Emissions From Glass Manufacturing Plants

C. Corrective changes are made to 40 CFR part 61 subpart A, section 61.04(b)(T), to read as follows: State of Louisiana: Technical Support Section Program Manager, Permits Division, Office of Environmental Services,

Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135.

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999).

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

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated February 12, 1999, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	<i>Federal Register</i> Citation	Date Promulgated	Subpart/ Appendix Heading
Subpart A	64 FR 7457	February 12, 1999	General Provisions

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999).

James H. Brent, Ph.D.
 Assistant Secretary

9910#013

RULE

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

**Land Disposal of Prohibited Waste by Deep Well Injection
 (LAC 33:V.517, 1529, 2201-2269, 2273, 4357 and 5120)
 (HW062)**

(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 amended the Hazardous Waste regulations, LAC 33:V.517, 1529, 2201-2269, 2273, 4357, and 5120 (Log #HW062).

The rule states that if land disposal by deep well injection has been exempted by the US EPA from the land disposal prohibitions; a permit has been issued for the injection well by the Louisiana Office of Conservation; and the secretary of the Department of Environmental Quality has made a determination that there are no economically reasonable and environmentally sound alternatives to the injection of such hazardous waste, then the land disposal restrictions do not apply to the disposal of the hazardous waste by injection well. The US EPA currently reviews and renders a decision on all petitions for exemption from the land disposal restrictions for hazardous waste disposal by injections wells. The Louisiana Office of Conservation is authorized to review and render a decision on applications for permits for all types of injection wells, including hazardous waste injection wells. This rule change will eliminate the department's duplication of work done by the US EPA and the Louisiana Office of Conservation. However, the department does retain the authority to grant or deny the use of injection wells for the disposal of hazardous waste based on the availability of economically reasonable and environmentally sound alternative methods of disposal. The basis and rationale for this rule is to bring the regulations in line with R.S. 30:2193.

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 D. Part II General Permit Information Requirements

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

* * *

[See Prior Text in A-U]

V. for land disposal facilities, if an approval has been granted under LAC 33:V.2239, a petition has been approved under LAC 33:V.2241 or 2271, or a determination made under LAC 33:V.2273, a copy of the notice of approval or a determination is required; and

* * *

[See Prior Text in W]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), LR 25:1465 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1798 (October 1999).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1529. Operating Record and Reporting Requirements

* * *

[See Prior Text in A-B.11]

12. Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, a petition approved in accordance with LAC 33:V.2241 or 2271, a determination made under LAC 33:V.2273, or a certification under LAC 33:V.2235 and the applicable notice required by a generator under LAC 33:V.2245.

* * *

[See Prior Text in B.13-E.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text A-G.1]

2. where persons have been granted an approval from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271, or a determination made in accordance with LAC 33:V.2273, with respect to those wastes and units covered by the petition;

* * *

[See Prior Text G.3-I.5.e]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), LR 24:1759 (September 1998), LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999).

§2205. Storage of Prohibited Wastes

* * *

[See Prior Text in A-C]

D. The prohibition in Subsection A of this Section does not apply to hazardous wastes that are the subject of an approval under LAC 33:V.2241 or 2271, or a determination under LAC 33:V.2273, a case-by-case extension of time under LAC 33:V.2239, or a national capacity variance.

* * *

[See Prior Text in E-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR

16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999).

§2209. Waste-Specific Prohibitions—Wood Preserving Wastes

* * *

[See Prior Text in A-C]

D. The requirements of Subsections A and B of this Section do not apply if:

1. an exemption or an approval has been granted in accordance with a petition under LAC 33:V.2241 or 2271, or a determination made under LAC 33:V.2273, with respect to those wastes and units covered by the petition;

* * *

[See Prior Text in D.2-E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999).

§2211. Waste-Specific Prohibitions—Dioxin-Containing Wastes

* * *

[See Prior Text in A-B.1]

2. the wastes are disposed of at a facility that has been granted an approval from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271, or a determination made under LAC 33:V.2273, with respect to those wastes covered by the exemption or approval or determination; or

* * *

[See Prior Text in B.3-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999).

§2243. Administrative Procedures for Exemptions Under LAC 33:V.2241 and 2271, No-Alternative Determinations Under LAC 33:V.2273, and Case-by-Case Extensions of an Effective Date Under LAC 33:V.2239

Before making a final decision on the exemption, determination, or extension request, the administrative authority will provide the person requesting the exemption, determination, or extension and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the exemption, determination, or extension, the opportunity to submit written comments on the request on the conditions of the exemption, determination, or extension, allowing a 45-day comment period. The notices referred to in this Section will

be provided in the local newspaper in three separate issues; however, the comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the exemption, determination, or extension request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999).

Subchapter B. Hazardous Waste Injection Restrictions
§2249. Purpose, Scope, and Applicability

* * *

[See Prior Text in A-C.1]

2. if an approval has been granted in response to a petition filed under LAC 33:V.2271, or a determination has been made under LAC 33:V.2273, to allow injection of prohibited wastes with respect to those wastes and wells covered by the petition; or

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999).

§2255. Waste Analysis

Generators of hazardous wastes that are disposed into Class I injection wells, under LAC 33:V.2271, must comply with the applicable requirements of LAC 33:V.2245. Owners or operators of Class I hazardous waste injection wells must comply with the applicable requirements of LAC 33:V.2247.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999).

§2257. Waste-Specific Prohibitions—Solvent Wastes

* * *

[See Prior Text in A-D.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC:V.2273; or

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by

the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999).

§2259. Waste-Specific Prohibitions—Dioxin-Containing Wastes

* * *

[See Prior Text in A-B.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999).

§2261. Waste-Specific Prohibitions—California List Wastes

* * *

[See Prior Text in A-C.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999).

§2263. Waste-Specific Prohibitions—First Third Wastes

* * *

[See Prior Text in A-F.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V. 2273; or

* * *

[See Prior Text in F.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999).

§2265. Waste-Specific Prohibitions—Second Third Wastes

* * *

[See Prior Text in A-C.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by

the Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999).

§2267. Waste-Specific Prohibitions—Third Third Wastes

* * *

[See Prior Text in A-D.1]

2. an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999).

§2269. Waste-Specific Prohibitions—Newly Listed Wastes

* * *

[See Prior Text in A-C.1]

2. an exemption or an approval has been granted in response to a petition under LAC 33:V.2271, or a determination made under LAC 33:V.2273; or

* * *

[See Prior Text in C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999).

§2273. Petition for Determinations Concerning No Alternatives to Land Disposal of a Prohibited Waste by Deep Well Injection

A. To the extent that the administrative authority has previously determined, through the issuance of an exemption under LAC 33:V.2271 or otherwise under LAC 33:V.Chapter 22, that no economically and environmentally reasonable alternatives to injection exist to the land disposal of a particular hazardous waste by injection well(s), such determination shall satisfy the requirement of and be deemed the determination by the administrative authority for purposes of R.S. 30:2193(G)(3). A formal petition in accordance with Subsection C of this Section may, but need not, be filed by the owner or operator of the injection well. The land disposal of the hazardous waste subject to the exemption shall be deemed to be excluded from the requirements of R.S. 30:2193(A)-(F), LAC 33:V.2205-2271, and any conditions of such exemption. The provisions set forth in Subsections D-L of this Section shall be applicable to such determination.

B. This Section is intended to provide the requirements to implement the exclusion provision set forth in R.S. 30:2193(G)(1)-(3). The implementation of this exclusion requires a determination from the administrative authority that there are no economically reasonable and environmentally sound alternatives to the land disposal of a hazardous waste by injection well. The requirements of R. S. 30:2193(A)-(F) and LAC 33:V.2205-2271 shall not apply to

the land disposal of a hazardous waste by injection well excluded under R.S. 30:2193(G)(1)-(3).

C. Any person seeking a determination of no alternatives must submit a petition to the administrative authority that does the following:

1. the petition must show that such land disposal has been exempted by the United States Environmental Protection Agency (EPA) from land disposal prohibitions contained in the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.;

2. the petition must show that a permit has been issued for such injection well or wells by the Louisiana Department of Natural Resources, Office of Conservation, in accordance with Title 30, Subtitle I, Chapter 1 of the Louisiana Revised Statutes of 1950 and the Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.;

3. the petition must show that for the injected hazardous waste there are no economically reasonable and environmentally sound alternatives to disposal into an injection well. The petition submitted in accordance with this Subsection must include:

a. an analysis of alternatives considered for technical feasibility;

b. an analysis of technically feasible alternatives, if any, showing whether any are economically reasonable;

c. an assessment of the impact of those economically reasonable alternatives considered, if any, on other environmental programs and permits of the facility, including impacts on air and water discharges; and

d. where applicable and appropriate, a description of the available capacity of economically reasonable and environmentally sound alternative technologies; and

4. the petition must include:

a. a waste characterization that describes the chemical and physical characteristics of the wastes being or to be injected;

b. a copy of the decision by the EPA exempting the land disposal from the prohibitions contained in the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., if issued;

c. a copy of the permit issued for such injection well or wells by the Louisiana Department of Natural Resources, Office of Conservation, in accordance with Title 30, Subtitle I, Chapter 1 of the Louisiana Revised Statutes of 1950 and the Safe Drinking Water Act, 42 U.S.C. 300(f), et seq., if issued;

d. such additional information as is required by the administrative authority to support the petition under this Section; and

e. this statement signed by a duly authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted for this petition and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

D. Following a determination under this Section, the owner or operator of the injection well must submit a report

to the administrative authority, by March 1 of each calendar year during the term of the determination, describing in detail the efforts undertaken during the preceding calendar year to identify any economically reasonable and environmentally sound alternatives to disposal into an injection well for any hazardous waste injected on site.

E. Except as otherwise provided in this Section, if a hazardous waste not subject to an existing determination is to be injected, a petition that addresses such hazardous waste must be submitted and a determination of no alternatives be made prior to this waste being injected. The provisions contained in Subsection J of this Section, shall apply with respect to such hazardous waste.

1. If such hazardous waste is substantially similar in potential alternative technologies to a hazardous waste subject to an existing determination under this Section issued to the same owner or operator, a new petition is not necessary, and such hazardous waste shall be included within that determination upon the owner or operator providing notice to the administrative authority. The notice must include a brief showing that the alternatives determination for the existing hazardous waste is applicable to such hazardous waste.

2. If the administrative authority determines that the condition of Subsection E.1 of this Section is not satisfied, the administrative authority shall require the owner or operator of the injection well to submit a petition under Subsection C of this Section that addresses such hazardous waste. In this circumstance such hazardous waste may be injected pending a final decision by the administrative authority on the petition.

F. If a new injection well(s) is to be used to inject a hazardous waste subject to an existing approved determination under this Section, a new petition is not necessary, provided the owner or operator submits a notice to the administrative authority. The notice shall include a copy of the EPA exemption approval for the new well(s) and a copy of the permit issued by the Louisiana Department of Natural Resources, Office of Conservation for the new well(s).

G. The administrative authority shall provide public notice and an opportunity for public comment, in accordance with the procedures in LAC 33:V.2243, of the intent to approve or deny a petition for no-alternatives determination. The administrative authority shall provide public notice of the final decision on such a petition.

H. Whenever the administrative authority determines that the basis for a determination may no longer be valid, the administrative authority may require a new petition in accordance with this Section.

I. Termination of a No-Alternatives Determination

1. The administrative authority may terminate a determination granted under this Section for any of the following causes:

a. noncompliance by the facility with any condition of the determination;

b. the facility's failure in the petition or during the review and determination to disclose fully all relevant facts or the facility's misrepresentation of any relevant facts at any time;

c. a determination that new information shows the basis for a determination of the petition is no longer valid;

d. upon the denial or termination of a Louisiana Department of Natural Resources, Office of Conservation final permit; or

e. upon the denial or termination of an EPA exemption for injection.

2. Should a determination be terminated because an economically reasonable and environmentally sound alternative exists, the administrative authority shall issue a compliance schedule authorizing continued injection for the amount of time reasonably necessary to construct and/or implement such alternative.

3. If during the review and determination of the petition, the facility willfully withholds facts directly and materially relevant to the decision, the administrative authority may terminate the determination.

4. The administrative authority shall follow the procedures in LAC 33:V.323 in terminating any determination under this Section.

J. If a petition has been submitted in accordance with this Section and the EPA and the Louisiana Department of Natural Resources, Office of Conservation have approved the land disposal of prohibited waste by injection well, the land disposal of the waste by injection well may continue until the administrative authority makes a decision on the petition.

K. If a no-alternatives determination is vacated and/or remanded, the land disposal of the waste by injection well may continue until final action on the remand is taken by the administrative authority and all subsequent administrative and/or judicial appeal processes have been completed.

L. Term of the No-Alternatives Determination

1. The term of a determination granted under this Section shall be a maximum of 10 years from the date of the determination.

2. The petitioner shall submit a petition for reissuance of a determination at least 180 days prior to the end of the term. If the petitioner submits a timely and technically complete petition and the administrative authority, through no fault of the petitioner, fails to act on the petition for reissuance on or before the expiration date of the existing determination, the petitioner may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing determination, which shall remain in effect until final action on the petition is taken by the administrative authority and all subsequent administrative and/or judicial appeal processes have been completed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999).

Chapter 43. Interim Status

§4357. Operating Record

* * *

[See Prior Text in A-B.9]

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with an exemption under LAC 33:V.2241 or 2271 or a certification

under LAC 33:V.2235, and the applicable notice required of a generator under LAC 33:V.2245;

* * *

[See Prior Text in B.11-16]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999).

Chapter 51. Fee Schedules

§5120. Land Disposal Prohibition Petition Fees

Petitions submitted in accordance with R.S. 30:2193(E)(2) and/or LAC 33:V.Chapter 22 are subject to additional fees as noted below for each petition submitted. These fees must be submitted at the time a petition is submitted.

Variance	\$ 10,000
Exemption	45,000
Extension	5,000
No-Alternatives Determinations	
Original Petition	10,000
Renewal Petition/Request	10,000
Request for determination for addition of a hazardous waste(s) not covered by existing determination	1,000

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999).

James H. Brent, Ph.D.

Assistant Secretary

9910#023

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

90-Day Tank Rule (LAC 33:V.1909)(HW067)

(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 amended the Hazardous Waste regulations, LAC 33:V.1909.D (Log #HW067).

This rule seeks to make Louisiana's hazardous waste regulations on 90-day tanks clearer and to lessen the risk of accidental releases of hazardous waste due to having to physically open and inspect the tanks every 90 days. The basis and rationale for this rule are to clarify the existing rule and allow it to be more consistent with EPA and neighboring state regulations.

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 19. Tanks
§1909. General Operating Requirements

* * *

[See Prior Text in A-C]

D. Owners or operators must provide documentation, maintained on-site, that tanks subject to the accumulation time exclusion of LAC 33:V.1109.E have been emptied and cleaned of all residues and/or sludges at least once in each 90-day period.

1. A tank is deemed emptied and cleaned for the purposes of this Subsection if it has been emptied to the maximum extent practicable and:

a. for tanks used to store similar wastes (compatible), cleaning/rinsing or removal of hazardous waste to a level at which no more than 2.5 centimeters (one inch) of waste on the bottom of the tank or three percent by volume of the total tank capacity remains in the tank is required; or

b. for tanks that may be used to store dissimilar (incompatible) wastes, cleaning/rinsing by method(s) necessary to remove all hazardous wastes to a level which precludes any incompatibility reactions and is sufficient to allow visible inspection of all tank interior surfaces is required.

2. Notwithstanding the provisions of Subsection D.1 of this Section, except to the extent otherwise approved by the administrative authority, tanks subject to the exclusion of LAC 33:V.1109.E must be completely emptied and cleaned once per year to a level sufficient to allow visual inspection of all tank interior surfaces.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999).

James H. Brent, Ph.D.
Assistant Secretary

9910#016

RULE
Office of the Governor
Board of Trustees of the State Employees
Group Benefits Program

Exclusive Provider Organization (EPO)—Plan of
Benefits (LAC 32:V.Chapters 1-7)

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 has adopted an entire new Plan Document for the State Employees Group Benefits Program, designating it as the EPO Plan Document. The EPO Plan Document sets forth the terms and conditions pursuant to which eligibility and benefit determinations are made with regard to the self-insured health and accident benefits plan, designated as the EPO Plan, provided for state employees and their dependents pursuant to R.S. 42:851 et seq., as follows:

Title 32
EMPLOYEE BENEFITS
Part V. Exclusive Provider (EPO)—Plan of Benefits
Chapter 1. Eligibility

§101. Persons to be Covered

Eligibility requirements apply to all participants in the program, whether in the PPO plan, the EPO plan or an HMO plan.

A. Employee Coverage

1. Employee – See §601.

2. Husband and Wife, Both Employees. No one may be enrolled simultaneously as an employee and as a dependent under the plan, nor may a dependent be covered by more than one employee. If a covered spouse chooses at a later date to be covered separately, and is eligible for coverage as an employee, that person will be a covered employee effective the first day of the month after the election of separate coverage. The change in coverage will not increase the benefits.

3. Effective Dates of Coverage, New Employee. coverage for each employee who completes the applicable enrollment form and agrees to make the required payroll contributions to his participant employer is to be effective as follows:

a. If employment begins on the first day of the month, coverage is effective the first day of the following month;

b. If employment begins on the second day of the month or after, coverage is effective the first day of the second month following employment;

c. Employee coverage will not become effective unless the employee completes an application for coverage within 30 days following the date of employment. An

employee who completes an application after 30 days following the date of employment will be considered an overdue applicant.

4. Employee Deferral Rule

a. If an employee is confined at home, in a hospital, nursing home, or elsewhere, by reason of disease, illness, accident, or injury on the date the employee would otherwise have become covered under this plan, the effective date of the employee and dependent coverage will be deferred until the date the employee returns to work for one full day.

b. The return to active work requirement will not serve to defer an employee's effective date of coverage in the event that the employee's normal place of employment is not open on the day he would otherwise have returned to work. If an employee is on an approved leave of absence on the day he would normally have returned to work, coverage will become effective on the day he returns to work.

5. Re-enrollment, Previous Employment

a. An employee whose employment terminated while covered, who is re-employed within 12 months of the date of termination will be considered a re-enrollment, previous employment applicant. A re-enrollment previous employment applicant will be eligible for only that classification of coverage (employee, employee and one dependent, family) in force on the effective date of termination.

b. If an employee acquires an additional dependent during the period of termination, that dependent may be covered if added within 30 days of re-employment.

6. Members of Boards and Commissions. Except as otherwise provided by law, members of boards or commissions are not eligible for Participation in the plan. This section does not apply to members of school boards or members of state boards or commissions who are defined by the participant Employer as full time employees.

7. Legislative Assistants. Legislative assistants are eligible to participate in the plan if they are declared to be full-time employees by the participant employer and have at least one year of experience or receive at least 80% of their total compensation as legislative assistants.

B. Retiree Coverage

1. Eligibility. Retirees of participant employers are eligible for retiree coverage under this plan.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement, if the retiree and participant employer have agreed to make and are making the required contributions. Retirees will not be eligible for coverage as overdue applicants.

b. A retiree retired from one participant employer may be covered as an employee of another participant employer or as a retiree of the participant employer from which he retired, but not both. In order to retain eligibility, upon termination of employment from the later participant employer, the retiree must return to the retirement group of his original participant employer within 30 days.

c. The retiree is responsible for notifying his initial participant employer of re-employment and return to retiree status.

C. Dependent Coverage

1. Eligibility. A dependent of an eligible employee or retiree will be eligible for dependent coverage on the later of the following dates:

- a. the date the employee becomes eligible;
- b. the date the retiree becomes eligible;
- c. the date the covered employee or covered retiree acquires a dependent.

2. Effective Dates of Coverage

a. Dependents of Employees. Coverage for dependents will be effective on the date the employee becomes eligible for dependent coverage.

b. Dependents of Retirees. Coverage for dependents of retirees will be effective on the first day of the month following the date of retirement if the employee and his dependents were covered immediately prior to retirement. Coverage for dependents of retirees first becoming eligible for dependent coverage following the date of retirement will be effective on the date of marriage for new spouses, the date of birth for newborn children, or the date acquired for other classifications of dependents, if application is made within 30 days of the date of eligibility.

c. Dependent Deferral Rule. If a dependent, other than a newborn child or legal spouse of an employee is confined at home, in a nursing home, hospital, or elsewhere by reason of disease, illness, accident, or injury on the date he would otherwise become covered under this plan, the effective date of that dependent's coverage will be deferred until the date confinement terminates or disability ends, whichever is later.

D. Pre-Existing Condition (PEC) - Overdue Application

1. The terms of the following paragraphs apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired. The provisions of this section do not apply to military reservists or national guardsmen ordered to active duty who return to state service and reapply for coverage with the program within 30 days of the date of reemployment. Coverage will be reinstated effective on the date of return to state service. The effective date of coverage will be:

- a. the first day of the month following the date of receipt by the program of all required forms prior to the fifteenth of the month;
- b. the first day of the second month following the date of the receipt by the program of all required forms on or after the fifteenth of the month.

2. The program will require that all overdue applicants complete a "Statement of Physical Condition" and an "Acknowledgement of Pre-existing Condition" form.

3. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under the plan will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received

during the 6-month period immediately prior to the effective date of coverage. The provisions of this section do not apply to pregnancy.

4. If the covered person was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), credit will be given for previous coverage that occurred without a break of 63 days or more for the duration of prior coverage against the initial 12-month period. Any coverage occurring prior to a break in coverage 63 days or more will not be credited against a pre-existing condition exclusion period.

E. Special Enrollments - HIPAA. In accordance with HIPAA, certain eligible persons for whom the option to enroll for coverage was previously declined, and who would be considered overdue applicants, may enroll by written application to the participant employer under the following circumstances, terms and conditions for special enrollments:

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined because the employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of participant employer contributions for the other coverage, unless the participant employer contributions were ceased for cause or for failure of the individual participant to make contributions; or

c. the employee or dependent having had COBRA continuation coverage under a Group Health plan and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquiring Dependents. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

a. A special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for which an application is made more than 30 days after eligibility will be considered overdue applicants subject to a pre-existing condition limitation.

b. The effective date of coverage shall be:

i. for loss of other coverage or marriage, the first day of the month following the date of receipt by the program of all required forms for enrollment;

ii. for birth of a dependent, the date of birth;

iii. for adoption, the date of adoption or placement for adoption.

c. Special enrollment applicants must complete acknowledgment of pre-existing condition and statement of physical condition forms.

d. Medical expenses incurred during the first 12 months that coverage for the special enrollee is in force under this plan will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care or treatment was recommended or received during the 6-

month period immediately prior to the enrollment date. The provisions of this section do not apply to pregnancy.

e. If the special enrollee was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in HIPAA, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition if the termination under the prior coverage occurred within 63 days of the date of coverage under the plan.

F. Retirees Special Enrollment. retirees will not be eligible for special enrollment, except under the following conditions:

1. retirement began on or after July 1, 1997;

2. the retiree can document that creditable coverage was in force at the time of the election not to participate or continue participation in the plan;

3. the retiree can demonstrate that creditable coverage was maintained continuously from the time of the election until the time of requesting special enrollment;

4. the retiree has exhausted all COBRA and/or other continuation rights and has made a formal request to enroll within 30 days of the loss of other coverage; and

5. the retiree has lost eligibility to maintain other coverage through no fault of his/her own and has no other creditable coverage in effect.

G. Health Maintenance Organization (HMO) Option

1. In lieu of participating in the plan, employees and retirees may elect coverage under an approved HMO.

2. New employees may elect to participate in an HMO during their initial period of eligibility. Each HMO will hold an annual enrollment period for a coverage effective date of July 1. Transfer of coverage from the plan to the HMO or vice-versa will only be allowed during this annual enrollment period. Transfer of coverage will also be allowed as a consequence of the employee being transferred into or out of the HMO geographic service area, with an effective date of the first day of the month following transfer.

3. If a covered person has elected to transfer coverage, but is hospitalized on July 1, the plan, which is providing coverage prior to July 1, will continue to provide coverage up to the date of discharge from the hospital.

H. Medicare Risk HMO Option for Retirees. Retirees who are eligible to participate in a Medicare Risk HMO plan who cancel coverage with the program upon enrollment in a Medicare Risk HMO plan may re-enroll in the program upon withdrawal from or termination of coverage in the Medicare Risk HMO plan, at the earlier of the following:

1. during the month of November, for coverage effective January 1; or

2. during the next annual enrollment, for coverage effective at the beginning of the next plan year.

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 25:1804 (October 1999).

§103. Continued Coverage

A. Leave of Absence. If an employee is allowed an approved leave of absence by his participant employer, he may retain his coverage for up to one year, if the premium is

paid. Failure to do so will result in cancellation of coverage. The program must be notified by the employee and the participant employer within 30 days of the effective date of the leave of absence.

B. Disability

1. Employees who have been granted a waiver of premium for basic or supplemental life insurance prior to July 1, 1984 may continue health coverage for the duration of the waiver if the employee pays the total contribution to the participant employer. Disability waivers were discontinued effective July 1, 1984.

2. If a participant employer withdraws from the plan, health and life coverage for all covered persons will terminate as of the effective date of withdrawal.

C. Surviving Dependents/Spouse. The provisions of this section are applicable to surviving dependents who elect to continue coverage following the death of an employee or retiree. On or after July 1, 1999, eligibility ceases for a covered person who becomes eligible for coverage in a Group Health plan other than Medicare. Coverage under the Group Health plan may be subject to HIPAA.

1. Benefits under the plan for covered dependents of a deceased covered employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurred unless the surviving covered dependents elect to continue coverage.

a. the surviving legal spouse of an employee or retiree may continue coverage until the surviving spouse becomes eligible for coverage in a Group Health plan other than Medicare;

b. the surviving children of an employee or retiree may continue coverage until they are eligible for coverage under a Group Health plan other than Medicare, or until attainment of the termination age for children, whichever occurs first;

c. surviving dependents/spouse will be entitled to receive the same participant employer premium contributions as employees and retirees;

d. coverage provided by the civilian health and medical program of the uniform services will not be sufficient to terminate the coverage of an otherwise eligible surviving legal spouse or a dependent child.

2. A surviving spouse or dependent cannot add new dependents to continued coverage other than a child of the deceased employee born after the employee's death.

3. Participant Employer/Dependent Responsibilities:

a. It is the responsibility of the participant employer and surviving covered dependent to notify the program within 60 days of the death of the employee or retiree;

b. The program will notify the surviving dependents of their right to continue coverage;

c. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification, and premium payment must be made within 45 days of the date continued coverage is elected for coverage retroactive to the date coverage would have otherwise terminated;

d. Coverage for the surviving spouse under this section will continue until the earliest of the following events occurs:

- i. failure to pay the applicable premium;
- ii. death of the surviving spouse;

iii. on or after July 1, 1999, becomes eligible for coverage under a group health plan other than Medicare.

e. Coverage for a surviving dependent child under this section will continue until the earliest of the following events:

i. failure to pay the applicable premium;

ii. on or after July 1, 1999, becomes eligible for coverage under any group health plan other than Medicare;

iii. the attainment of the termination age for children.

D. Over-Age Dependents. If an unmarried, never married dependent child is incapable of self-sustaining employment by reason of mental retardation or physical incapacity and became incapable prior to the termination age for children and is dependent upon the covered employee for support, the coverage for the dependent child may be continued for the duration of incapacity.

1. Prior to attainment of age 21, the program must receive documentation for dependents who are mentally retarded or who have a physical incapacity.

2. For purposes of this section, mental illness does not constitute mental retardation.

3. The program may require that the covered employee submit current proof from a licensed medical doctor of continued mental retardation or physical incapacity as often as it may deem necessary.

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 25:1806 (October 1999).

§105. COBRA

A. Employees

1. Benefits under this plan for a covered employee will terminate on the last day of the calendar month during which employment is terminated voluntarily or involuntarily, the employee no longer meets the definition of an employee or coverage under a leave of absence expires unless the covered employee elects to continue at the employee's own expense. Employees terminated for gross misconduct are not eligible for COBRA.

2. It is the responsibility of the participant employer to notify the program within 30 days of the date coverage would have terminated because of any of the foregoing events and the program will notify the employee within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of the date of notification and premium payment must be made within 45 days of the date the employee elects continued coverage, for coverage retroactive to the date coverage would have otherwise terminated. Coverage under this section will continue until the earliest of the following:

a. failure to pay the applicable premium;

b. 18 months from the date coverage would have terminated;

c. entitlement to Medicare;

d. coverage under a Group Health Plan, except when subject to a pre-existing condition limitation.

B. Surviving Dependents

1. Benefits for covered surviving dependents of an employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurs,

unless the surviving covered dependents elect to continue coverage at his/her own expense.

2. It is the responsibility of the participant employer or surviving covered dependents to notify the program within 30 days of the death of the employee or retiree. The program will notify the surviving dependents of their right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of the date of notification. Premium payment must be made within 45 days of the date the continued coverage was elected, retroactive to the date coverage would have terminated.

a. Coverage for the surviving dependents under this section will continue until the earliest of the following:

- i. failure to pay the applicable premium;
- ii. death of the surviving spouse;
- iii. entitlement to Medicare;
- iv. coverage under a Group Health plan, except when subject to a pre-existing condition limitation.

b. Coverage for a surviving dependent child under this section will continue until the earliest of the following:

- i. failure to pay the applicable premium;
- ii. 36 months beyond the date coverage would have terminated;
- iii. entitlement to Medicare;
- iv. coverage under a Group Health Plan, except when subject to a pre-existing condition.

C. Divorced Spouse

1. Coverage under this plan will terminate on the last day of the month during which dissolution of the marriage occurs by virtue of a legal decree of divorce from the employee or retiree, unless the covered divorced spouse elects to continue coverage at his or her own expense. It is the responsibility of the divorced spouse to notify the program within 60 days from the date of divorce and the program will notify the divorced spouse within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of notification. Premium payment must be made within 45 days of the date continued coverage is elected, for coverage retroactive to the date coverage would have terminated.

2. Coverage for the divorced spouse under this section will continue until the earliest of the following:

- a. failure to pay the applicable premium;
- b. 36 months beyond the date coverage would have terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, except when subject to a pre-existing condition.

D. Dependent Children

1. Benefits under this plan for a covered dependent child of a covered employee or retiree will terminate on the last day of the month during which the dependent child no longer meets the definition of an eligible covered dependent, unless the dependent elects to continue coverage at his or her own expense. It is the responsibility of the dependent to notify the program within 60 days of the date coverage would have terminated and the program will notify the dependent within 14 days of his or her right to continue coverage.

2. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continued coverage is elected, for coverage retroactive to the date coverage would have terminated.

3. Coverage for children under this section will continue until the earliest of the following:

- a. failure to pay the applicable premium;
- b. 36 months beyond the date coverage would have terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, except when subject to a pre-existing condition.

E. Dependents of COBRA Participants

1. If a covered terminated employee has elected to continue coverage and if during the period of continued coverage the covered spouse or a covered dependent child becomes ineligible for coverage due to:

- a. death of the employee;
- b. divorce from the employee; or
- c. a dependent child no longer meets the definition of an eligible covered dependent;

2. Then, the spouse and/or dependent child may elect to continue coverage at their own expense. coverage will not be continued beyond 36 months from the date coverage would have terminated.

F. Dependents of Non-Participating Terminated Employee

1. If an employee no longer meets the definition of an employee, or a leave of absence has expired and the employee has not elected to continue coverage, the covered spouse and/or covered dependent children may elect to continue coverage at their own expense. The elected coverage will be subject to the notification and termination provisions.

2. In the event a dependent child, covered under the provisions of the preceding paragraph no longer meets the definition of an eligible covered dependent, he or she may elect to continue coverage at his or her own expense. Coverage cannot be continued beyond 36 months from the date coverage would have terminated.

G. Miscellaneous Provisions. During the period of continuation, benefits will be identical to those provided to others enrolled in this plan under its standard eligibility provisions for employee and retirees.

H. Disability COBRA

1. If a covered employee or covered dependent is determined by Social Security or by the program staff (in the case of a person who is ineligible for Social Security disability due to insufficient "quarters" of employment), to have been totally disabled on the date the covered person became eligible for continued coverage or within the initial 18 months of coverage, coverage under this plan for the covered person who is totally disabled may be extended at his or her own expense up to a maximum of 29 months from the date coverage would have terminated. To qualify the Covered person must:

- a. submit a copy of his or her social security disability determination to the program before the initial 18-

month continued coverage period expires and within 60 days after the date of issuance of the Social Security determination; or

b. submit proof of total disability to the program before the initial 18-month continued coverage period expires.

2. For purposes of eligibility for continued coverage under this section, total disability means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of 12 months. To meet this definition one must have a severe impairment which makes one unable to do his previous work or any other substantial gainful activity which exists in the national economy, based upon a person's residual functional capacity, age, education and work experience.

3. The staff and medical director of the program will make this determination of total disability based upon medical evidence, not conclusions, presented by the applicant's physicians, work history, and other relevant evidence presented by the applicant.

4. Coverage under this section will continue until the earliest of the following:

a. 30 days after the month in which social security determines that the covered person is no longer disabled. (The covered person must report the determination to the program within 30 days after the date of issuance by social security);

b. 29 months from the date coverage would have terminated;

I. Medicare COBRA. If an employee becomes entitled to Medicare on or before the date the employee's eligibility for benefits under this plan terminates, the period of continued coverage available for the employee's covered dependents will be the earliest of the following:

1. failure to pay the applicable premium;
2. 36 months beyond the date coverage would have terminated;
3. entitlement to Medicare;
4. coverage under a Group Health Plan, except when subject to a pre-existing condition.

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 25:1807 (October 1999).

§107. Change of Classification

A. Adding or Deleting Dependents. The plan member must notify the program whenever a dependent is added to, or deleted from, the plan member's coverage, regardless of whether the addition or deletion would result in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. Change in Coverage

1. When, by reason of a change in family status (e.g., marriage, birth of child), the class of coverage is subject to change, effective on the date of the event, if application for the change is made within 30 days of the date of the event.

2. When the addition of a dependent results in the class of coverage being changed, the additional premium will be charged for the entire month if the date of change occurs on or before the fourteenth day of the month. If the date of change occurs on or after the fifteenth day of the

month, additional premium will not be charged until the first day of the following month.

C. Notification of Change. It is the responsibility of the employee to notify the program of any change in classification of coverage affecting the employee's contribution amount. Any such failure later determined will be corrected on the First day of the following month.

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 25:1809 (October 1999).

§109. Contributions

The State of Louisiana may make a contribution toward the cost of the plan, as determined on an annual basis by the legislature.

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 25:1809 (October 1999).

Chapter 2. Termination of Coverage

§201. Active Employee and Retired Employee Coverage

A. Subject to continuation of coverage and COBRA rules, all benefits of a covered person will terminate under this plan on the earliest of the following dates:

1. on the date the program terminates;
2. on the date the group or agency employing the covered employee terminates or withdraws from the program;
3. on the contribution due date if the group or agency fails to pay the required contribution for the covered employee;
4. on the contribution due date if the covered person fails to make any contribution which is required for the continuation of his coverage;
5. on the last day of the month of the covered employee's death;
6. on the last day of the month in which the covered employee ceases to be eligible.

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 25:1809 (October 1999).

§203. Dependent Coverage Only

A. Subject to continuation of coverage and COBRA rules, dependent coverage will terminate under this plan on the earliest of the following dates:

1. on the last day of the month the employee ceases to be covered.
2. on the last day of the month in which the dependent, as defined in this plan ceases to be an eligible dependent of the covered employee;
3. for grandchildren for whom the employee does not have legal custody or has not adopted, on the date the child's parent ceases to be a covered dependent under this plan or the grandchild no longer meets the definition of children;
4. upon discontinuance of all dependent coverage under this plan.

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 25:1809 (October 1999).

Chapter 3. Medical Benefits

§301. Medical Benefits Apply when Eligible Expenses are Incurred by a Covered Person

A. Eligible Expenses. Eligible expenses are the charges incurred for the following items of service and supply. These charges are subject to the applicable deductibles, limits of the fee schedule, schedule of benefits, exclusions and other provisions of the plan. A charge is incurred on the date that the service or supply is performed or furnished. Eligible expenses are:

1. hospital care. The medical services and supplies furnished by a hospital or ambulatory surgical center. covered charges for room and board will be payable as shown in the schedule of benefits;
2. services of a physician;
3. routine nursing services, i.e., "floor nursing" services provided by nurses employed by the hospital are considered as part of the room and board;
4. anesthesia and its administration;
5. laboratory examinations and diagnostic X-rays;
6. nuclear medicine and electroshock therapy;
7. blood and blood plasma, blood derivatives and blood processing, when not replaced;
8. surgical and medical supplies billed for treatment received in a hospital or ambulatory surgical center, and other covered provider's surgical and medical supplies as listed below:
 - a. catheters - external and internal;
 - b. cervical collar;
 - c. leg bags for urinal drainage;
 - d. ostomy supplies;
 - e. prosthetic socks;
 - f. prosthetic sheath;
 - g. sling (arm or wrist);
 - h. suction catheter for oral evacuation;
 - i. surgical shoe (following foot surgery only);
 - j. plaster casts;
 - k. splints;
 - l. surgical trays (for certain procedures).
9. services of licensed physical, occupational or speech therapist when prescribed by a physician and pre-approved through outpatient procedure certification.
10. intravenous injections, solutions, and eligible related intravenous supplies;
11. services rendered by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) for the treatment of accidental injuries to a covered person's sound natural teeth, if:
 - a. coverage was in effect with respect to the individual at the time of the accident;
 - b. treatment commences within 90 days from the date of the accident and is completed within two years from the date of the accident; and
 - c. coverage remains continuously in effect with respect to the covered person during the course of the treatment; eligible expenses will be limited to the original estimated total cost of treatment as estimated at the time of initial treatment;
12. durable medical equipment, subject to the lifetime maximum payment limitation as listed in the schedule of

benefits. The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time it will be used;

13. initial prosthetic appliances. Subsequent prosthetic appliances are eligible only when acceptable certification is furnished to the program by the attending physician;

14. professional ambulance services, subject to the following provisions:

a. licensed professional ambulance service in a vehicle licensed for highway use to or from a hospital with facilities to treat an illness or injury. The program will consider a maximum up to \$350 less a \$50 copayment for transportation charges. Medical services and supplies will be considered separately;

b. licensed air ambulance service to a hospital with facilities to treat an illness or injury. The program will consider a maximum up to \$1,500 less a \$250 copayment. Medical services and supplies will be considered separately;

15. one pair of eyeglass lenses or contact lenses required as a result of bilateral cataract surgery performed while coverage was in force. Expenses incurred for the eyeglass frames will be limited to a maximum benefit of \$50.00;

16. the first two pairs of surgical pressure support hose. Additional surgical support hose may be considered an eligible expense at the rate of one pair per six-month period;

17. the first two ortho-mammary surgical brassieres. Additional ortho-mammary surgical brassieres may be considered an eligible expense at the rate of one per six-month period;

18. orthopedic shoes prescribed by a physician and completely custom built;

19. acupuncture when rendered by a medical doctor;

20. eligible expenses associated with an organ transplant procedure including expenses for patient screening, organ procurement, transportation of the organ, transportation of the patient and/or donor, surgery for the patient and donor and immunosuppressant drugs, if:

a. the transplantation must not be considered experimental or investigational by the American Medical Association;

b. the transplant surgery must be performed at a medical center, which has an approved transplant program as determined by Medicare;

c. the plan will not cover expenses for the transportation of surgeons or family members of either the patient or donor;

d. all benefits paid will be applied against the lifetime maximum benefit of the transplant recipient;

21. services of a physical therapist and occupational therapist licensed by the state in which the services are rendered when:

a. prescribed by a licensed medical doctor;

b. services require the skills of and performed by a licensed physical therapist or licensed occupational therapist;

c. restorative potential exists;

d. meets the standard for medical practice;

e. reasonable and necessary for the treatment of the disease, illness, accident, injury or post operative condition;

f. approved through outpatient procedure certification;

22. cardiac rehabilitation when:
 - a. rendered at a medical facility under the supervision of a physician;
 - b. rendered in connection with a myocardial infarction, angioplasty with or without stenting, or cardiac bypass surgery;
 - c. completed within 6 months following the qualifying event;

Note: Charges incurred for dietary instruction, educational services, behavior modification literature, health club membership, exercise equipment, preventative programs and any other items excluded by the plan are not covered.

23. routine physical examinations and immunizations as follows:

- a. well-baby care expenses subject to the annual deductible and copayments:
 - i. newborn facility and professional charges;
 - ii. birth to age 1 - all office visits for scheduled immunizations and screening;
- b. well-child care expenses subject to the annual deductible and copayments:
 - i. age 1 to age 3 - 3 office visits per year for scheduled immunizations and screening;
 - ii. age 3 to age 16 - 1 office visit per year for scheduled immunizations and screening;
- c. well-adult care expenses not subject to the annual deductible, but limited to a maximum benefit of \$200.00:
 - i. age 16 to age 40 - 1 physical every 3 years;
 - ii. age 40 to age 50 - 1 physical every 2 years;
 - iii. age 50 and over - 1 physical every year;

24. not subject to the annual deductible:

- a. one pap test for cervical cancer per calendar year;
- b. screening mammographic examinations performed according to the following schedule:
 - i. one baseline mammogram during the five-year period a person is 35-39 years of age;
 - ii. one mammogram every two calendar years for any person who is 40-49 years of age or more frequently if recommended by a physician;
 - iii. one mammogram every 12 months for any person who is 50 years of age or older;
- c. testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every twelve months for men over the age of 50 years, and as medically necessary for men over the age of 40 years;

25. outpatient surgical facility fees as specified in the maximum payment schedule;

26. midwifery services performed by a certified midwife or a certified nurse midwife;

27. physician's assistants, perfusionists, and registered nurse assistants assisting in the operating room;

28. splint therapy for the treatment of temporomandibular joint dysfunction (TMJ), limited to a lifetime benefit of \$600 for a splint and initial panorex x-ray only. Surgical treatment for TMJ will only be eligible following a demonstrated failure of splint therapy and upon approval by the program;

29. oxygen and oxygen equipment;

30. outpatient self-management training and education, including medical nutrition therapy, for the treatment of

diabetes, when these services are provided by a licensed health care professional with demonstrated expertise in diabetes care and treatment who has completed an educational program required by the appropriate licensing board in compliance with the National Standards for Diabetes Self-Management Education program as developed by the American Diabetes Association, and only as follows:

- a. a one-time evaluation and training program for diabetes self management, conducted by the health care professional in compliance with National Standards for Diabetes Self Management Education program as developed by the American Diabetes Association, upon certification by the health care professional that the Covered person has successfully completed the program, such benefits not to exceed \$500;

- b. additional diabetes self-management training required because of a significant change in the patient's symptoms or conditions, limited to benefits of \$100 per year and \$2,000 per lifetime;

- c. services must be rendered at a facility with a diabetes educational program recognized by the American Diabetes Association;

31. testing of sleep disorders only when the tests are performed at a facility accredited by the American Sleep Disorders Association. No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program;

32. mental health and/or substance abuse services only when obtained through the program's managed care contractor as shown in the schedule of benefits. These services must be identified by a DSM IV diagnosis code.

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 25:1810 (October 1999).

§303. Fee Schedule

A. The fee schedule sets the maximum fee that the program will allow for an eligible medical expense.

B. If the medical provider accepts an assignment of benefits, the plan member cannot be billed for amounts exceeding the fee schedule.

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 25:1811 (October 1999).

§305. Automated Claims Adjusting

Auto audit is a software program that applies all claims against its medical logic program to identify improperly billed charges, and charges for which this plan provides no benefits. Any claim with diagnosis or procedure codes deemed inadequate or inappropriate will be automatically reduced or denied. Providers accepting assignment of benefits cannot bill the plan member for the reduced amounts.

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 25:1811 (October 1999).

§307. Utilization Review - Pre-admission Certification, Continued Stay Review

A. Pre-admission certification (PAC) and continued stay review (CSR) establish the medical necessity and length of inpatient hospital confinement.

1. It is the plan member's responsibility to assure that PAC is obtained for non-PPO facilities.

2. It is the provider's responsibility to obtain PAC for EPO and PPO facilities. If the provider fails to do this, the plan member cannot be billed for any amount not covered by this plan.

B. For a routine vaginal delivery, PAC is not required for a stay of 2 days or less. If the mother's stay exceeds or is expected to exceed 2 days, PAC is required within 24 hours after the delivery or the date on which any complications arose, whichever is applicable. If the baby's stay exceeds that of the mother, PAC is required within 72 hours of the mother's discharge and a separate pre-certification number must be obtained for the baby. In the case of a scheduled cesarean section, it is required that PAC be obtained prior to or the day of admission.

C. No benefits will be paid under the plan:

1. unless PAC is requested at least 72 hours prior to the planned date of admission;

2. unless PAC is requested within 48 hours of admission in the case of an emergency;

3. for hospital charges incurred during any confinement for which PAC was requested, but which was not certified as medically necessary by the program's utilization review contractor;

4. for hospital charges incurred during any confinement for any days in excess of the number of days certified through PAC or CSR.

D. Benefits otherwise payable for services at a non-PPO facility will be reduced by 25% on any confinement for which PAC was not obtained.

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 25:1812 (October 1999).

§309. Outpatient Procedure Certification (OPC)

A. OPC certifies that certain outpatient procedures and therapies are medically necessary.

1. It is the plan member's responsibility to assure that OPC is requested on services performed by non-PPO providers.

2. On services performed by an EPO or PPO provider, it is the provider's responsibility to obtain OPC. The plan member cannot be billed if the provider fails to do so.

B. OPC is required on the following procedures:

1. cataract;
2. laparoscopic cholecystectomy;
3. lithotripsy;
4. magnetic resonance imaging:
 - a. brain/head lower extremity;
 - b. upper extremity;
 - c. spine;
5. knee arthroscopy;
6. septoplasty;
7. therapies:
 - a. physical therapy;
 - b. speech therapy;

c. occupational therapy;

d. therapy with unlisted modality.

C. No benefits will be paid for the facility fee in connection with outpatient procedures, or the facility and professional fee in connection with outpatient therapies:

1. unless OPC is requested at least 72 hours prior to the planned date of procedure or therapy;

2. for charges incurred on any listed procedure for which OPC was requested but not certified as medically necessary by the program's utilization review contractor.

D. Benefits otherwise payable for services rendered by a non-PPO provider will be reduced by 25 percent for any procedure or therapy on which OPC was not obtained.

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 25:1812 (October 1999).

§311. Case Management

A. Case management (CM) is the managed care program available in cases of illness or injury where critical care is required and/or treatment of extended duration is anticipated.

B. Case management may provide coverage for services that are not normally covered. To be eligible, the condition being treated must be a covered condition, and Case management must be approved prior to the service being rendered.

C. These charges are subject to the deductible, co-insurance, fee schedule and maximum benefit limitations.

D. The following criteria must be met:

1. the program must be the primary carrier at the time case management is requested. Any case management plan will be contingent upon the program remaining the primary carrier;

2. the patient must not be confined in any type of nursing home setting at the time case management is requested;

3. there must be a projected savings to the program through case management; or a projection that case management expenses will not exceed normal plan benefits; and

a. the proposed treatment plan will enhance the patient's quality of life;

b. benefits will be utilized at a slower rate through the alternative treatment plan.

E. If approved, case management may provide any of the following:

1. alternative care in special rehabilitation facilities;

2. alternative care in a skilled nursing facility/unit or swing bed (not nursing home), or the patient's home, subject to the deductible and coinsurance;

3. avoidance of complications by earlier hospital discharge, alternative care and training of the patient and/or family;

4. home health care services limited to 150 visits per plan year;

5. hospice care:

a. not subject to the deductible;

b. benefits are always payable at 80 percent, never at 100 percent.

6. private duty nursing care;

7. total parenteral nutrition, provided that home visits for TPN are not reimbursable separately;

8. enteral nutrition up to a single 90-day period for instances where through surgery or neuromuscular mechanisms the patient cannot maintain nutrition and the condition can reasonably be expected to improve during this one 90-day timespan.

F. Mental health and substance abuse treatments or conditions are not eligible for case management.

G. Benefits are considered payable only upon the recommendation of the program's contractor, with the approval of the attending physician, patient or his representative, and the program or its representative. Approval is contingent upon the professional opinion of the program's medical director, consultant, or his designee as to the appropriateness of the recommended alternative care.

H. If a condition is likely to be lengthy or if care could be provided in a less costly setting, the program's contractor may recommend an alternative plan of care to the physician and patient.

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 25:1812 (October 1999).

§313. Dental Surgical Benefits

A. When excision of one or more impacted teeth is performed by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) while coverage is in force, the program will pay, without deductible, the eligible expense actually incurred for the surgical procedure.

B. Expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care are subject to the deductible, co-insurance and the maximum benefit provisions of the plan.

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).

§315. Medicare Reduction

A. If the patient has not chosen and paid a separate premium for the full coordination of benefits option, the charges will be reduced by whatever amounts are paid or payable by Medicare. The program requires written confirmation from the Social Security Administration or its successor if a person is not eligible for Medicare coverage. All provisions of this plan, including all limitations and exceptions, will be applied.

B. Retiree 100-Medicare COB - upon enrollment and payment of the additional monthly premium, a plan member and his dependents may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare or within 30 days of retirement if already eligible for Medicare and at the annual open enrollment.

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).

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this plan for:

1. cases covered, in whole or in part, by any worker's compensation program, regardless of whether the patient has filed a claim for benefits. This applies to compensation provided on an expense-incurred basis or blanket settlements for past and future losses;

2. convalescent, skilled nursing, sanitarium, or custodial care or rest cure;

3. expenses for elective, non-therapeutic voluntary abortion, although expenses for complications as a result are covered;

4. intentionally self-inflicted injuries, injuries sustained while in an aggressor role, or any attempt at suicide;

5. expenses incurred as a result of the patient's attempt at a felony or misdemeanor;

6. expenses incurred by a covered person in connection with cosmetic surgery, unless necessary for the immediate repair of a deformity caused by a disease and/or injury which occurs while coverage is in force. No payment will be made for expenses incurred in connection with the treatment of any body part not affected by the disease and/or injury;

7. expenses incurred for shoes and related items similar to wedges, cookies and arch supports;

8. any expense, except for actual out-of-pocket expenses, incurred by a member of a Health Maintenance Organization (HMO), Health Maintenance Plan (HMP) or other prepaid medical plan or medical services plan if the covered person is enrolled on a group (employer-sponsored) basis;

9. dental braces and orthodontic appliances (for whatever reason prescribed or utilized) and treatment of periodontal disease;

10. dentures, dental implants and any surgery for their use, except if needed as the result of an accident that meets the program's requirements;

11. medical services, treatment or prescription drugs provided without charge to the covered person or for which the covered person is not legally obligated to pay;

12. maternity expenses incurred by any person other than the employee or the employee's legal spouse;

13. personal convenience items including, but not limited to, admit kits, bedside kits, telephone and television, guest meals, beds, and similar items;

14. charges for services and supplies which are in excess of the maximum allowable under the medical fee schedule, outpatient surgical facility fee schedule, or any other limitations of the plan;

15. services and supplies which are not medically necessary;

16. services rendered for remedial reading and recreational, visual and behavioral modification therapy, pain rehabilitation control and/or therapy, and dietary or educational instruction for all illnesses, other than diabetes;

17. services and supplies in connection with or related to: gender dysphoria or reverse sterilization;

18. artificial organ implants, penile implants, transplantation of other than homo sapiens (human) organs;

19. expenses subsequent to the initial diagnosis, for infertility and complications, including, but not limited to, services, drugs, and procedures or devices to achieve fertility; in-vitro fertilization, low tubal transfer, artificial

insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

20. air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, cold devices, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, and any other items not normally considered medical supplies;

21. administrative fees, interest, penalties or sales tax;

22. marriage counseling and/or family relations counseling;

23. charges for services rendered over the telephone from a physician to a covered person;

24. radial keratotomy or any procedures for the correction of refractive errors;

25. speech therapy, except when ordered by a physician for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurological disease;

26. services and supplies related to obesity, surgery for excess fat in any area of the body, resection of excess skin or fat following weight loss or pregnancy;

27. hearing aids, or any examination to determine the fitting or necessity;

28. hair transplants;

29. routine physical examinations or immunizations not listed under eligible expenses;

30. diagnostic or treatment measures which are not recognized as generally accepted medical practice;

31. medical supplies not listed under eligible expenses;

32. treatment or services for mental health and substance abuse provided outside the treatment plan developed by the program's managed care contractor or by therapists with whom or at facilities with which the program's managed care contractor does not have a contract;

33. expenses for services rendered by a dentist or oral surgeon and any ancillary or related services, except for covered dental surgical procedures, dental procedures which fall under the guidelines of eligible dental accidents, procedures necessitated as a result of or secondary to cancer, or oral and maxillofacial surgeries which are shown to the satisfaction of the program to be medically necessary, non-dental, non-cosmetic procedures;

34. genetic testing, except when determined to be medically necessary during a covered pregnancy;

35. treatment for Temporomandibular Joint Dysfunction (TMJ), except as listed under eligible expenses;

36. services of a private-duty Registered Nurse (R.N.) or of a private-duty Licensed Practical Nurse (L.P.N.);

37. breast thermograms;

38. services rendered by any provider related to the patient by blood, adoption or marriage;

39. expenses from a provider who is not licensed in the state where services are rendered.

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).

§319. Coordination of Benefits

A. Coordination of benefits is the order of payment when two or more plans are involved. When a patient is also covered by another plan, the plans will coordinate benefits.

B. Benefit plan is this plan or any one of the following;

1. group or employer sponsored plan;

2. group practice and other group prepayment plan;

3. other plans required or provided by law. This does not include Medicaid or any benefit plan that does not allow coordination.

C. Primary Plan and Secondary Plan

1. All benefits provided are subject to coordination of benefits;

2. Benefit plan payment order:

a. If an individual is covered by more than one plan, the order of benefit payment will follow guidelines established by the National Association of Insurance Commissioners, except for Health Maintenance Organizations or other types of employer-sponsored prepaid medical plans;

b. The plan that pays first will pay as if there were no other plan involved. The secondary and subsequent plans may pay the balance due up to 100% of the total allowable expense. No plan will pay benefits greater than it would have paid in the absence of coordination of benefits.

D. Health Maintenance Organizations (HMO). If a person is also covered as a dependent under a Health Maintenance Organization (HMO), the program will consider the HMO as the primary carrier. The plan will consider as eligible only those actual out-of-pocket expenses incurred that the patient is legally obligated to pay.

E. Preferred Provider Organizations (PPO). In the event that a covered person is also covered as a dependent under a PPO contract, the plan will consider as eligible only those expenses actually incurred by the covered person under the terms of the PPO contract, and for which the covered person is legally obligated to pay.

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 25:1814 (October 1999).

§321. Exclusive Provider program

A. The program may implement Exclusive Provider Organization (EPO) arrangements or other agreements to discount payable fees. The program reserves to itself the right to negotiate the amount of the discount, the incentives to be offered to plan members and all other provisions which are a part of any discount fee arrangement. To be eligible, the program must be the primary carrier at the time services are rendered. The only exception would be on a covered person with only Medicare Part A, who did not also have Medicare Part B. The Part B charges would be eligible for EPO benefits.

1. If a covered person obtains medical services or hospital services from an eligible provider who has agreed to provide the services at a mutually agreed upon discount from the maximum medical fee schedule or at a per diem or discounted rate from a hospital, the program will pay after applicable copays, as specified in the schedule of benefits. There is a contractual assignment to all EPO providers.

2. Point of Service EPO Regions (Areas)

a. The following regions are used to determine whether there is an EPO provider in the same area as the point of service:

- Region 1 - Zip Codes 70000 through 70199
- Region 2 - Zip Codes 70300 through 70399
- Region 3 - Zip Codes 70400 through 70499
- Region 4 - Zip Codes 70500 through 70599
- Region 5 - Zip Codes 70600 through 70699
- Region 6 - Zip Codes 70700 through 70899
- Region 7 - Zip Codes 71300 through 71499
- Region 8 - Zip Codes 71000 through 71199
- Region 9 - Zip Codes 71200 through 71299

b. If a non-EPO provider is used, then PPO benefits apply as described in this document.

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 25:1814 (October 1999).

§323. Preferred Provider Program

A. The program may implement Preferred Provider Organization (PPO) arrangements or other agreements to discount payable fees. The program reserves to itself the right to negotiate the amount of the discount, the incentives to be offered to plan members and all other provisions which are a part of any discount fee arrangement. To be eligible, the program must be the primary carrier at the time services are rendered. The only exception would be on a Covered person with only Medicare Part A, who did not also have Part B. The Part B charges would be eligible for PPO Benefits.

B. If a covered person obtains medical services or hospital services from an eligible provider who has agreed to provide the services at a mutually agreed upon discount from the maximum medical fee schedule or at a per diem or discounted rate from a hospital, the program will pay, following satisfaction of all applicable deductibles, 70 percent of the first \$5,000 of eligible expenses and 100 percent of eligible expenses, except prescription drugs, in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits.

C. Point of Service PPO Regions (Areas)

1. The following regions are used to determine whether there is a PPO provider in the same area as the point of service:

- Region 1 - Zip Codes 70000 through 70199
- Region 2 - Zip Codes 70300 through 70399
- Region 3 - Zip Codes 70400 through 70499
- Region 4 - Zip Codes 70500 through 70599
- Region 5 - Zip Codes 70600 through 70699
- Region 6 - Zip Codes 70700 through 70899
- Region 7 - Zip Codes 71300 through 71499
- Region 8 - Zip Codes 71000 through 71199
- Region 9 - Zip Codes 71200 through 71299

2. If a non-PPO provider is used in an area where there are PPO providers of the same service, then the plan member is reimbursed 50 percent of the eligible expenses. If there is no PPO provider of the same service in the area where the service is provided, then the plan member is reimbursed 80 percent of eligible expenses. If services are

received from a PPO, then services are reimbursed at 70 percent of the PPO rate with payments made to the PPO provider. These are all made subject to deductibles to the PPO provider. There is contractual assignment to every PPO provider.

3. A Non-PPO hospital will be paid, after applicable deductibles, 80 percent of eligible expenses for emergency room services provided at the hospital emergency room and billed by that hospital. The plan member has the responsibility for establishing that the treatment services were emergency room services, as defined by the program.

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 25:1815 (October 1999).

§325. Prescription Drug Benefits

A. This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered person as an inpatient hospital patient or an outpatient hospital patient, including insulin, Retin-A dispensed for Covered persons under the age of 26, Vitamin B12 injections, and prescription potassium chloride. In addition:

1. drugs prescribed for treatment of impotence, only for males over the age of thirty, in A quantity not greater than five (5) per month. No benefits are payable for Yohimbine oral tablets, self-injectables Papaverine and Phentolamine, or any other drugs prescribed or dispensed for treatment of impotence unless such treatment is indicated in the FDA approval of the drug;

2. over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. retin-A dispensed for a covered person over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals;
9. drugs available over the counter; and
10. serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting.

C. Outpatient prescription drug benefits are adjudicated by a third-party prescription benefits manager with whom the program has contracted. In addition to all provisions, exclusions and limitations relative to prescription drugs set forth elsewhere in this plan document, the following apply to expenses incurred for outpatient prescription drugs:

1. upon presentation of the Group Benefits program Health Benefits Identification Card at a network pharmacy, the plan member will be responsible for copayment of \$6.00 per prescription when a generic drug is dispensed and \$16.00 per prescription when a brand name drug is

dispensed. The copayment cannot exceed the actual charge by the pharmacy for the drug;

2. in the event the plan member does not present the Group Benefits program Identification Card to the Network pharmacy at the time of purchase, the plan member will be responsible for full payment for the drug and must then file a claim with the prescription benefits manager for reimbursement, which will be limited to the rates established for non-network pharmacies;

3. if the plan member obtains a prescription drug from a non-network pharmacy in state, benefits will be limited to 50 percent. Out-of-state benefits will be limited to 80 percent;

4. regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge and eligible expenses for generic drugs will be limited to the prescription benefits manager's generic maximum allowable charge;

5. prescription drug dispensing and refills will be limited in accordance with protocols established by the Prescription benefits manager, including the following limitations:

a. up to a 34-day supply of acute drugs may be dispensed at one time;

b. up to a 90-day supply of maintenance drugs may be dispensed at one time; and

c. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

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 25:1815 (October 1999).

Chapter 4. Uniform Provisions

§401. Statement of Contractual Agreement

This written plan Document as amended and any documents executed by or on behalf of the covered employee constitute the entire agreement between the parties.

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 25:1816 (October 1999).

§403. Properly Submitted Claim

A. For plan reimbursements, all bills must show:

1. employee's name;
2. name of patient;
3. name, address, and telephone number of the provider of care;
4. diagnosis;
5. type of services rendered, with diagnosis and/or procedure codes;
6. date of service;
7. charges;
8. employee's member number;
9. provider Tax Identification number;
10. Medicare explanation of benefits, if applicable.

B. The program can require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish the requested information will constitute reason for the denial of benefits.

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 25:1816 (October 1999).

§405. When Claims Must be Filed

A claim for benefits must be received by the program by 4:30 p.m. On June 30 next following the end of the calendar year in which the medical expenses were incurred.

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 25:1816 (October 1999).

§407. Right to Receive and Release Information

The program may release to, or obtain from any company, organization, or person, without consent of or notice to any person, any information regarding any person which the program deems necessary to carry out the provisions of this plan, or like terms of any plan, or to determine how, or if, they apply. Any claimant under this plan must furnish to the program any information necessary to implement this provision.

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 25:1816 (October 1999).

§409. Legal Limitations

A plan member must exhaust the claims appeal procedure before filing a suit for benefits.

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 25:1816 (October 1999).

§411. Benefit Payment to Other Group Health Plans

When payments, which should have been made under this plan, have been made by another Group Health plan, the program may pay to the other plan the sum proper to satisfy the terms of this plan document.

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 25:1816 (October 1999).

§413. Recovery of Overpayments

If an overpayment occurs, the program retains the right to recover the overpayment. The covered person, institution or provider receiving the overpayment must return the overpayment. At the plan's discretion, the overpayment may be deducted from future claims. Should legal action be required as a result of fraudulent statements or deliberate omissions on the application, the defendant will be responsible for attorney fees of 25 percent of the overpayment or \$1,000 whichever is greater. The defendant will also be responsible for court costs and legal interest from date of judicial demand until paid.

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 25:1816 (October 1999).

§415. Third Party Recovery Provision

A. Right of Subrogation and Reimbursement. When this provision applies, the covered person may incur medical or dental charges due to injuries which may be caused by the act or omission of a third party or a third party may be responsible for payment. In such circumstances, the covered person may have a claim against the third party, or insurer, for payment of the medical or dental charges. Accepting benefits under this plan for those incurred medical or dental expenses automatically assigns to the program any rights the covered person may have to recover payments from any third party or insurer. This right allows the program to pursue any claim which the covered person has against any third party, or insurer, whether or not the covered person chooses to pursue that claim. The program may make a claim directly against the third party or insurer, but in any event, the program has a lien on any amount recovered by the covered person whether or not designated as payment for medical expenses. This lien will remain in effect until the program is repaid in full. The program reserves the right to recover either from the liable third party or the covered person. The covered person:

1. automatically assigns to the program his or her rights against any third party or insurer when this provision applies;

2. must notify the program of a pending third-party claim; and

3. must repay to the program the benefits paid on his or her behalf out of the recovery made from the third party or insurer.

B. Amount Subject to Subrogation or Reimbursement

1. The covered person agrees to recognize the program's right to subrogation and reimbursement. These rights provide the program with a priority over any funds paid by a third party to a covered person relative to the injury or sickness, including a priority over any claim for non-medical or dental charges, attorney fees, or other costs and expenses.

2. Notwithstanding its priority to funds, the program's subrogation and reimbursement rights, as well as the rights assigned to it, are limited to the extent to which the program has made, or will make, payments for medical or dental charges as well as any costs and fees associated with the enforcement of its rights under the program.

3. When a right of recovery exists, the covered person will cooperate and provide requested information as well as doing whatever else is needed to secure the program's right of subrogation and reimbursement as a condition to having the program make payments. In addition, the covered person will do nothing to prejudice the right of the program to subrogate or seek reimbursement.

4. This right of refund also applies when a covered person recovers under an uninsured or underinsured motorist plan, homeowner's plan, renter's plan, medical malpractice plan, worker's compensation plan or any liability plan.

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 25:1817 (October 1999).

§417. Employer Responsibility

It is the responsibility of the participant employer to submit enrollment and change forms and all other necessary documentation on behalf of their employees to the program. Employees of a participant employer will not by virtue of furnishing any documentation to the program on behalf of a plan member, be considered agents of the program, and no representation made by any such person at any time will change the provisions of this plan.

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 25:1817 (October 1999).

§419. Program Responsibility

The program will administer the plan in accordance with the terms of the plan document, state and federal law, and its established policies, interpretations, practices, and procedures. It is the express intent of this program that the Board of Trustees will have maximum legal discretionary authority to construe and interpret the terms and provisions of the plan, to make determinations regarding issues which relate to eligibility for benefits, to decide disputes which may arise relative to covered person's rights, and to decide questions of plan document interpretation and those of fact relating to the plan document. The decisions of the Board of Trustees or its committees will be final and binding on all interested parties.

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 25:1817 (October 1999).

§421. Reinstatement to Position Following Civil Service Appeal

A. Indemnity Plan Participants. When coverage of a terminated employee who was a participant in the health indemnity plan is reinstated by reason of a civil service appeal, coverage will be reinstated to the same level in the health indemnity plan retroactive to the date coverage terminated. The employee and participant employer are responsible for the payment of all premiums for the period of time from the date of termination to the date of the final order reinstating the employee to his position. The program is responsible for the payment of all eligible benefits for charges incurred during this period. All claims for expenses incurred during this period must be filed with the program within 60 days following the date of the final order of reinstatement.

B. Health Maintenance Organization (HMO) Participants. When coverage of a terminated employee who was a participant in an HMO is reinstated by reason of Civil Service appeal, coverage will be reinstated in the HMO in which the employee was participating effective on the date of the final order of reinstatement. There will be no retroactive reinstatement of coverage and no premiums will be owed for the period during which coverage with the HMO was not effective.

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 25:1817 (October 1999).

§423. Plan Document and/or Contract Amendments or Termination

The program has the statutory responsibility of providing health and accident and death benefits for covered persons to the extent that funds are available. The program reserves to itself the right to terminate or amend the eligibility and benefit provisions of its plan document from time to time as it may deem necessary to prudently discharge its duties. Termination or modifications will be promulgated subject to the applicable provisions of law, and nothing contained herein shall be construed to guarantee or vest benefits for any participant, whether active or retired.

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 25:1818 (October 1999).

Chapter 5. Claims Review and Appeal

§501. Claims Review Procedure and Appeals

A. In cases where a claim for benefits payment is denied, the covered person may appeal the denial. Issues involving eligibility may also be appealed. The covered person may request from the program a review of any claim for benefits or eligibility. The written request must include the name of the covered person, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

B. The request for review must be directed to the CEO within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review, pharmacy benefit or mental health contractors.

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 25:1818 (October 1999).

§503. Review and Appeal Prerequisite to Legal Action

The covered person must exhaust the claims appeal procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought against the program to attempt to establish eligibility or to recover benefits allegedly payable under the program.

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 25:1818 (October 1999).

§505. Grievance Committee

The chairman of the Board of Trustees will appoint a grievance committee that has authority to hear and decide all appeals. The committee may appoint a referee to take testimony in and to hear all appeals.

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 25:1818 (October 1999).

§507. Assignment of Appeals for Hearing

Unless an informal disposition is made, a Notice of the time and place fixed for the hearing will be mailed to the plan member at least twenty (20) calendar days prior to the

date of the hearing. Appeals of utilization review, pharmacy benefit or mental health issues must first be heard by the respective contractor's appeal process before submitting a request for review to the program.

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 25:1818 (October 1999).

§509. Procedure for Hearing Appeals

A. Unless requested by the covered person, hearings will be closed to the public. In that event, the hearing will be open except to the extent that other legitimate purposes can only be protected by closing portions of the hearing.

B. The covered person has the right, but is not required, to be represented at the hearing by legal counsel who is a member in good standing of the bar of the state of Louisiana.

C. The committee or referee will control the hearing in a manner best suited to ascertain the facts and safeguard the rights of the parties to the hearing.

D. The basis of the initial determination which is the subject of review will be presented first. The covered person, or representative, will then be given the opportunity to demonstrate why this determination should be held in error. The program will then be given the opportunity to present the case in support of the initial determination.

E. Testimony will be taken only on oath, affirmation, or penalty of perjury. The committee, or any subordinate presiding officer will have the power to administer oaths and affirmations as well as other powers granted in this section and by law.

F. Each party to the hearing will have the right to call and examine all other parties to the hearing and their witnesses; to introduce exhibits; to question opposing witnesses and parties to the hearing on any matter relevant to the issue, even though the matter was not covered in the direct examination; to impeach any witness regardless of which party to the hearing first called the witness to testify; and to rebut any evidence presented.

G. Any relevant evidence will be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any statutory or other rule of law which might make improper the admission of the evidence over objection in a civil or criminal proceeding.

H. The committee or referee may question any party to the hearing or witness and may admit any relevant and material evidence.

I. The covered person has the burden of proving whatever facts are necessary to support the opposition to the initial determination.

J. If, after the hearing has begun, the committee or referee determines that additional evidence is necessary for the proper determination of the case, (a) the hearing may be continued to a later date and any party to the hearing ordered to produce additional evidence; or (b) the hearing may be closed, and the record held open in order to permit the introduction of additional documentary evidence. The committee or referee may order a further hearing if the nature of the additional evidence or the refutation thereof makes further hearing desirable.

K. At the request of any party to the hearing made prior to the close of the hearing, the committee or referee will

grant oral argument. If written argument is requested, it may be granted and, if granted, the parties to the hearing will be advised as to the time and manner within which the argument is to be filed. The committee or referee may require any party to the hearing to submit written memorandum pertaining to any or all issues raised in the hearing.

L. A verbatim taped record will be made of the hearing and made a permanent part of the committee's records. A typed transcript of the hearing will be made only when determined to be necessary at the hearing, or subsequently, if legal action results, at the cost of the party requesting the transcript.

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 25:1818 (October 1999).

§511. Subpoena of Witness; Production of Documents

A. The committee, each member thereof, or the referee to whom an appeal has been referred will have the power to order the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

B. The committee or referee may order the production or inspection of any records or relevant portions of records in the possession of the program when necessary to decide the issues in any appeal or to assist a covered person in preparing for the proceeding. A request by a covered person, or representative for an order to produce or inspect records of the program must be in writing and must clearly state the information desired, the records desired to be produced or inspected, and the reason therefor.

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the CEO no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas must contain the names of the witnesses and a statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoena deposits with the CEO a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the CEO no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence must contain a description of the items to be produced in sufficient detail for identification and must contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

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 25:1819 (October 1999).

§513. Appeals Decisions

A. Appeals heard by the committee. At the conclusion of the hearing, the committee will take the matter under submission and, as soon as is reasonably possible thereafter, render its decision in the case which will be based on the

evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed by certified mail to the covered person and any representative thereof.

B. Appeals heard by referee. At the conclusion of the hearing, the referee will take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the committee for review.

C. The recommended decision will be reviewed by the CEO, who may concur without comment or who may prepare a written opinion of the recommendation.

1. The committee may adopt or reject the recommended decision. In the case of adoption, the referee's decision becomes the decision of the committee. In the case of rejection, the committee will render its decision which will include a statement of reasons for disagreement with the referee's decision. The decision of the committee will be final. A copy will be mailed by certified mail to the covered person and any representative thereof.

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 25:1819 (October 1999).

§515. Rehearing

A. A covered person aggrieved by an appeal decision of the committee may request a rehearing only on the Grounds that:

1. the decision is clearly contrary to the law and the evidence;
2. the covered person has discovered, since the hearing, evidence important to the issues which could not have, with due diligence, been obtained before or during the hearing;
3. there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or
4. there is other good ground for further consideration of the issues and the evidence.

B. The request for rehearing must (a) be in writing; (b) be signed by the covered person or representative; (c) set forth the grounds which justify rehearing; and (d) contain a clear and concise statement of the reasons in support thereof.

C. The request for rehearing must be filed with the CEO on or before 30 calendar days after the mailing of the appeal decision of the committee. The request will be deemed filed on the date it is received in the office of the CEO. The CEO will cause the date of filing to be noted on each request for rehearing.

D. When a rehearing is denied by the committee, the appealing party and any representative will be notified by certified mail.

E. When a rehearing is granted by the committee, an order will be issued setting forth the grounds. The CEO will cause a copy of the order to be sent, along with notice of the time and place fixed for the rehearing, to the appealing party and any representative by certified mail.

F. On rehearing, the matter will be heard by the committee and will be confined to those grounds upon which the rehearing was granted.

G. When an appeal has been decided on rehearing, another request for rehearing will not be considered.

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 25:1819 (October 1999).

§517. Judicial Review

A covered person aggrieved by a final decision of the committee is entitled to judicial review in accordance with L.R.S. 49:964.

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).

Chapter 6. Definitions

§601. Definitions

Appeal—means a request for and a formal review by a plan member of a medical claim for benefits or an eligibility determination.

Benefit Payment—means payment of eligible expenses incurred by a covered person during a calendar year at the rate shown under percentage payable in the schedule of benefits.

Board of Trustees—means the entity created and empowered to administer the State Employees Group Benefits program.

Calendar Year—means that period commencing at 12:01 a.m., January 1, standard time, at the address of the employee, or the date the covered person first becomes covered under the plan and continuing until 12:01 a.m., standard time, at the address of the employee on the next following January 1. Each successive calendar year will be the period from 12:01 a.m., January 1, standard time, at the address of the employee to 12:01 a.m., the next following January 1.

CEO—means the Chief Executive Officer of the program.

Children—means:

1. any natural or legally adopted children of the employee and/or the employee's legal spouse dependent upon the employee for support;

2. any children in the process of being adopted by the employee through an agency adoption who are living in the household of the employee and who are or will be included as a dependent of the employee's federal income tax return for the current or next tax year (if filing is required);

3. other children for whom the employee has legal custody, who live in the household of the employee, and who are or will be included as a dependent on the employee's federal income tax return for the current or next tax year (if filing is required);

4. grandchildren for whom the employee does not have legal custody, who are dependent upon the employee for support, and one of whose parents is a covered dependent. If the employee seeking to cover a grandchild is a paternal grandparent, the program will require that the biological father, i.e. The covered son of the plan member, execute an acknowledgement of paternity.

If dependent parent becomes ineligible, the grandchild becomes ineligible for coverage, unless the employee has legal custody of the grandchild.

COBRA—means federal continuation of coverage laws originally enacted in the Consolidated Omnibus Budget Reconciliation Act of 1985 with amendments.

Committee—means the grievance committee of the board.

Covered Person—means an active or retired employee, or his eligible dependent, or any other individual eligible for coverage for whom the necessary application forms have been completed and for whom the required contribution is being made.

Custodial Care—means care designed essentially to assist an individual to meet his activities of daily living (i.e. Services which constitute personal care such as help in walking, getting in and out of bed, assisting in bathing, dressing, feeding, using the toilet and care which does not require admission to the hospital or other institution for the treatment of a disease, illness, accident or injury, or for the performance of surgery; or, care primarily to provide room and board with or without routine nursing care, training in personal hygiene and other forms of self-care) and supervisory care by a doctor for a person who is mentally or physically incapacitated and who is not under specific medical, surgical or psychiatric treatment to reduce the incapacity to the extent necessary to enable the patient to live outside an institution providing medical care, or when, despite treatment, there is not reasonable likelihood that the incapacity will be so reduced.

Date Acquired—means the date a dependent of a covered employee is acquired in the following instance and on the following dates only:

1. legal spouse—date of marriage;

2. children—

a. natural children—the date of birth;

b. children in the process of being adopted:

i. agency adoption—the date the adoption contract was executed by the employee and the adoption agency;

ii. private adoption—the date of the execution of the act of voluntary surrender in favor of the employee, if the program is furnished with certification by the appropriate clerk of court setting forth the date of execution of the act and the date that said act became irrevocable, or the date of the first court order granting legal custody, whichever occurs first;

c. other children living in the household of the covered employee who are or will be included as a dependent on the employee's federal income tax return - the date of the court order granting legal custody;

d. grandchildren for whom the employee does not have legal custody, who are dependent upon the employee for support, and one of whose parents is a covered dependent as defined:

i. the date of birth, if all the requirements are met at the time of birth; or

ii. the date on which the coverage becomes effective for the covered dependent, if all the requirements are not met at the time of birth.

Deductible—means the amount of covered charges for which no benefits will be paid. Before benefits can be paid in a calendar year, a covered person must meet the deductible shown in the schedule of benefits.

Dependent—means any of the following persons who are enrolled for coverage as dependents, if they are not also covered as an employee:

1. the covered employee's legal spouse;
2. any (never married) children from date of birth (must be added to coverage within 30 days from date acquired by completing appropriate enrollment documents) up to 21 years of age, dependent upon the employee for support;
3. any unmarried (never married) children 21 years of age, but under 24 years of age, who are enrolled and attending classes as full-time students and who depend upon the employee for support. The term full-time student means students who are enrolled at an accredited college or university, or at a vocational, technical, or vocational-technical or trade school or institute, or secondary school, for the number of hours or courses which is considered to be full-time attendance by the institution the student is attending;

It is the responsibility of the plan Member to furnish proof acceptable to the program documenting the full-time student status of a dependent child for each semester.

4. any dependent parent of an employee or of an employee's legal spouse, if living in the same household, was enrolled prior to July 1, 1984, and who is, or will be, claimed as a dependent on the employee's federal income tax return in the current tax year. The program will require an affidavit stating the covered employee intends to include the parent as a dependent on his federal income tax return for the current tax year. Continuation of coverage will be contingent upon the payment of a separate premium for this coverage.

Dependent Coverage—means benefits with respect to the employee's dependents only.

Disability—means that the covered person, if an employee, is prevented, solely because of a disease, illness, accident or injury from engaging in his regular or customary occupation and is performing no work of any kind for compensation or profit; or, if a dependent, is prevented solely because of a disease, illness, accident or injury, from engaging in substantially all the normal activities of a person of like age in good health.

Durable Medical Equipment—means equipment which:

1. can withstand repeated use;
2. is primarily and customarily used to serve a medical purpose;
3. generally is not useful to a person in the absence of a illness or injury; and
4. is appropriate for use in the home. Durable Medical Equipment includes, but is not limited to, such items as wheelchairs, hospital beds, respirators, braces (non-dental) and other items that the program may determine to be durable medical equipment.

Emergency Room Services—means hospital services eligible for reimbursement, provided at a hospital emergency room and billed by a hospital, and provided on an expeditious basis for treatment of unforeseen medical conditions which, if not immediately diagnosed and treated, could reasonably result in physical impairment or loss of life.

Employee—means a full-time employee as defined by a participant employer in accordance with state law. No person

appointed on a temporary appointment will be considered an employee.

Employee Coverage—means benefits with respect to the employee only.

EPO—means an Exclusive Provider Organization. An EPO is a medical provider such as a hospital, doctor or clinic who entered into a contractual agreement with the program to provide medical services to Covered persons at a reduced or discounted price.

Family Unit Limit—means the dollar amount shown in the schedule of benefits has been incurred by three members of a family unit toward their calendar year deductibles. The deductibles of all additional members of that family unit will be considered satisfied for that year.

Fee Schedule—means the schedule of maximum allowable charges for professional or hospital services adopted and promulgated by the Board of Trustees.

Future Medical Recovery—means recovery from another plan of expenses contemplated to be necessary to complete medical treatment of the covered person.

Group Health Plan—means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

Health Insurance Coverage—means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer. However, benefits described pursuant to the Health Insurance Portability and Accountability Act are not treated as benefits consisting of medical care.

Health Maintenance Organization (HMO)—means any legal entity, which has received a certificate of authority from the Louisiana Commissioner of Insurance to operate as a health maintenance organization in Louisiana.

HIPAA—means the Health Insurance Portability and Accountability Act of 1996 (USA Public Law 104-191).

Hospital—means an institution, which meets all the following requirements:

1. is currently a licensed as a hospital by the state in which services are rendered and is not primarily an institution for rest, the aged, the treatment of pulmonary tuberculosis, a nursing home, extended care facility or remedial training institution, or facilities primarily for the treatment of conduct and behavior disorders.

Incurred Date—means the date upon which a particular service or supply is rendered or obtained. When a single charge is made for a series of services, each service will bear a pro rated share of the charge.

Inpatient Confinement—means a hospital stay, which is equal to or exceeds 24 hours.

Lifetime Maximum Benefit—means the total amount of benefits that will be paid under the plan for all eligible expenses incurred by a covered person.

Medically Necessary—means a service or treatment which, in the judgement of the program:

1. is appropriate and consistent with the diagnosis and which, in accordance with accepted medical standards, could

not have been omitted without adversely affecting the patient's condition or the quality of medical care rendered; and

2. is not primarily custodial care.

Medicare—means the health insurance available through Medicare laws enacted by the Congress of the United States.

Network Pharmacy—means a pharmacy, which participates in a network established and maintained by a prescription benefits management firm with which the program has contracted to provide and administer outpatient prescription drug benefits.

Occupational Therapy—means the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury in order to significantly improve functioning.

Outpatient Surgical Facility—means an ambulatory surgical facility licensed by the state in which the services are rendered.

Pain Rehabilitation Control and/or Therapy—means any program designed to develop the individual's ability to control or tolerate chronic pain.

Participant Employer—means a state entity, school board or a state political subdivision authorized by law to participate in the program.

Physical Therapy—means the evaluation of physical status as related to functional abilities and treatment procedures as indicated by that evaluation.

Physician—

1. means the following persons, licensed to practice their respective professional skills by reason of statutory authority:

- a. doctor of medicine (M.D.);
- b. doctor of dental surgery (D.D.S.);
- c. doctor of dental medicine (D.M.D.);
- d. doctor of osteopathy (D.O.);
- e. doctor of podiatric medicine (D.P.M.);
- f. doctor of chiropractic (D.C.);
- g. doctor of optometry (O.D.);
- h. psychologist meeting the requirements of the National Register of Health Service Providers in Psychology;

i. board certified social workers who are a members of an approved clinical social work registry or employed by the United States, the State of Louisiana, or a Louisiana parish or municipality, if performing professional services as a part of the duties for which he is employed;

j. mental health counselors who are licensed by the state in which they practice;

k. substance abuse counselors who are licensed by the state in which they practice;

2. the term physician does not include social workers, who are not board certified; interns; residents; or fellows enrolled in a residency training program regardless of any other title by which he is designated or his position on the medical staff of a hospital. A senior resident, for example, who is referred to as an assistant attending surgeon or an associate physician, is considered a resident since the senior year of the residency is essential to completion of the training program. Charges made by a physician, who is on the faculty of a state medical school, or on the staff of a state

hospital, will be considered a covered expense if the charges are made in connection with the treatment of a disease, illness, accident or injury covered under this plan, and if the physician would have charged a fee for the services in the absence of this provision;

3. it is the specific intent and purpose of the program to exclude reimbursement to the covered person for services rendered by social workers who are not board certified; and intern, resident, or fellow enrolled in a residency training program regardless of whether the intern, resident, or fellow was under supervision of a physician or regardless of the circumstances under which services were rendered;

4. The term physician does not include a practicing medical doctor in the capacity of supervising interns, residents, senior residents, or fellows enrolled in a training program, who does not personally perform a surgical procedure or provide medical treatment to the Covered person.

Plan—means coverage under this contract including PPO benefits, prescription drug benefits, mental health and substance abuse benefits and comprehensive medical benefits.

Plan Member—means a covered person other than a dependent.

PPO—means a Preferred Provider Organization. A PPO is a medical provider such as a hospital, doctor or clinic who entered into a contractual agreement with the program to provide medical services to covered persons at a reduced or discounted price.

Program—means the state employees Group Benefits program as administered by the board of trustees.

Recovery—means monies paid to the Covered person by way of judgment, settlement, or otherwise to compensate for all losses caused by the injuries or sickness whether or not said losses reflect medical or dental charges covered by the program.

Referee—means a hearing officer employed by the board, to whom an appeal may be referred for hearing.

Rehabilitation and Rehabilitation Therapy—means care concerned with the management of patients with impairments of function due to disease, illness, accident or injury.

Reimbursement—means repayment to the program for medical or dental benefits that it has paid toward care and treatment of the injury or sickness.

Rest Cure—means care provided in a sanitarium, nursing home or other facility and designed to provide custodial care and provide for the mental and physical well being of an individual.

Retiree—means an individual who was a covered employee, immediately prior to the date of retirement and who, upon retirement:

1. immediately received retirement benefits from an approved state or governmental agency defined benefit plan; or

2. was not eligible for participation in such a plan or had legally opted to not participate in such a plan; and

a. began employment prior to September 15, 1979, has 10 years of continuous state service and has reached the age of 65; or

b. began employment after September 16, 1979, has 10 years of continuous state service and has reached the age of 70; or

c. was employed after July 8, 1992, has 10 years of continuous state service, has a credit for a minimum of 40 quarters in the Social Security system at the time of employment and has reached the age of 65; or

d. maintained continuous coverage with the program as an eligible dependent until he/she became eligible as a former state employee to receive a retirement benefit from an approved state governmental agency defined benefit plan; or

3. immediately received retirement benefits from a state-approved or state governmental agency-approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system responsible for administration of the defined contribution plan is responsible for certification of eligibility to the State employees Group Benefits program;

4. retiree also means an individual who was a covered employee who continued the coverage through the provisions of COBRA immediately prior to the date of retirement and who, upon retirement, qualified for any of items 1, 2, or 3, above.

Room and Board—means all hospital expenses necessary to maintain and sustain a covered person during a confinement, including but not limited to, facility charges for the maintenance of the Covered person’s hospital room, dietary and food services, nursing services performed by nurses employed by or under contract with the hospital and Housekeeping services.

Stop Loss Provision—represents the co-insurance amount for which the plan Member is responsible. This amount does not include any deductibles or ineligible expenses. The plan Member’s Stop Loss will be the difference between the program’s payment and the eligible charge.

Subrogation—means the program's right to pursue the Covered person’s claims for medical or dental charges against a liability insurer, a responsible party or the Covered person.

Temporary Appointment—means an appointment to any position for a period of 120 consecutive calendar days or less.

Treatment—includes consultations, examinations, diagnoses, and as well as medical services rendered in the care of a Covered person.

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 in that physician’s office, and billed by that physician with Wellness procedure and diagnosis codes. All other health services coded with wellness procedures and Diagnosis codes are excluded.

Well-Baby Care—means routine care to a well newborn infant from the date of birth until age 1. This includes routine physical examinations, active immunizations, check-ups, and office visits to a physician and billed by that

physician, except for the treatment and/or diagnosis of a specific illness.

Well-Child Care—means routine physical examinations, active immunizations, check-ups and office visits to a physician, and billed by that physician, 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).

Chapter 7. Schedule of Benefits—EPO
§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

	PPO/non participating provider	EPO
Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person	\$2,000,000	
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person	\$250,000	

1. Deductibles:

Inpatient deductible per day, maximum of 5 days per Admission (waived for admissions at PPO hospitals)	\$50	0
Emergency room charges for each visit unless The Covered person is hospitalized immediately Following emergency room treatment (prior to And in addition to Calendar Year deductible)	\$100	0
Professional and other eligible expenses		
• Per person, per Calendar Year	\$300	0
• family Unit maximum (3 individual deductibles)	\$900	0

2. Percentage Payable after Satisfaction of Applicable Deductibles

Eligible expenses incurred at an EPO		\$15/25 ¹
Eligible expenses incurred at a PPO	70% of negotiated rate	N/A
Eligible expenses incurred at a non-PPO/non-EPO When one is available in the region	50%	N/A
Eligible expenses incurred at a non-PPO/non-EPO When not available at an EPO/PPO or out of state	80%	N/A
Eligible expenses incurred when Medicare or Other Group Health plan is primary, and after Medicare reduction	80%	N/A
Eligible expenses in excess of \$5,000 per Calendar Year per person	100%	N/A

3. Eligible hospital Expenses

Hospital Room and Board not to exceed the Average semi-private room rate	See % payable after Deductible	100% after copay (\$100 per day up to \$300)
Intensive Care Unit not to exceed 2 ½ times The hospital's average semi-private room rate	See % payable after Deductible	100% after copay
Miscellaneous Expenses	See % payable after Deductible	100% after copay

4. Prescription Drugs (No deductible) 50% non-Network in state

\$6 copayment for generic drugs and \$16 copayment For brand name drugs purchased at a network pharmacy 80% non-Network out of state

B. Dental Surgery Benefit For Specified Procedure

Percentage payable (Deductible waived) 100%

C. Well Care

1. Well Baby

Birth to age 1 - all office visits for scheduled Immunizations and screenings See % payable after deductible \$15 copay/office visit

2. Well Child

Age 1-2 - 3 office visits per year for scheduled immunizations and screenings See % payable after deductible \$ 15 copay/office visit

Age 3-15 - 1 office visit per year for scheduled immunizations and screenings See % payable after deductible \$ 15 copay/office visit

3. Well Adult (No deductible; limited to a maximum benefit of \$200)

Age 16-39 - 1 physical every 3 years ²See % payable below No copay

Age 40-49 - 1 physical every 2 years ²See % payable below No copay

Age 50 and over - 1 physical every year ²See % payable below No copay

D. Pre-Natal And Postpartum Maternity See percent payable after Deductible – Pg. 4 \$90 one-time charge to include physician delivery Charge, all pre-natal, one postpartum visit

E. Durable Medical Equipment

Lifetime Maximum per Covered person \$50,000
 Percentage Payable See % payable after Deductible 20% copay; 100% coverage after \$50,000 eligible expense met for calendar Year

F. Physical/ Occupational/ Speech Therapy ² See % payable after deductible \$15 copay for outpatient services

G. Outpatient Services

Outpatient Surgery ¹	See % payable after Deductible – Pg. 4	\$100 copay
MRI/CAT SCAN ¹	See % payable after Deductible - Pg. 4	\$50 copay
Sonograms	See % payable after Deductible – Pg. 4	\$25 copay
Chemical & Radiation Therapy	See % payable after Deductible – Pg. 4	No copay
Pre-admission Testing	See % payable after Deductible – Pg. 4	No copay
Dialysis	See % payable after Deductible – Pg. 4	No copay
Hospital X-Ray & Lab	See % payable after Deductible – Pg. 4	No copay
Cardiac Rehabilitation (6-month limit)	See % payable after deductible – Pg. 4	\$15 copay
Emergency Room Services	See % payable after Deductible – Pg. 4	\$100 copay waived if admitted
H. Home Health (Limit 150 visits per plan year; requires prior Approval through Case Management)	See % payable after deductible – Pg. 4	\$15 copay per visit

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).

§703. Mental Health And Substance Abuse

(Requires prior approval of services)

A. Deductibles

Annual per person (Separate from Comprehensive Medical Benefits deductible)	\$ 200
Inpatient (Maximum 5 days; \$250 per stay)	\$ 50 per day

B. Benefits

- 80% of the first \$5,000 of eligible expenses
- 100 % of eligible expenses over \$5,000 until the Lifetime Maximum for all plan benefits is reached
- Up to a maximum of 45 inpatient days per person, per calendar year
- Up to a maximum of 52 outpatient visits per person, per Calendar Year, inclusive of the intensive outpatient program

Note: Two days of partial hospitalization or two days of residential treatment center hospitalization may be traded for each inpatient day of treatment that is available under the 45-day Calendar Year maximum for inpatient treatment. A residential treatment center is a 24-hour mental health or substance abuse, non-acute care treatment setting for active treatment interventions directed at the amelioration of the specific impairments that led to admission. Partial hospitalization is a level of care where the patient remains in the hospital less than 24 hours. Expenses incurred for emergency services will only be reimbursed if, after review, the services are determined to be a life-threatening psychiatric emergency resulting in an authorized mental health or substance abuse admission within 24 hours to an inpatient, partial, or intensive outpatient level care. Non-emergent psychiatric or substance abuse problems treated in the emergency room will not be eligible for reimbursement.

¹The \$15 copay applies to primary care physicians. PCPs are limited to general practice, internal medicine, family practice, OB gyn, and pediatrician.

²Subject to Pre-Admission Certification (PAC) Guidelines.

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 25:1824 (October 1999).

A. Kip Wall
Interim Chief Executive Officer

9910#008

RULE

Office of the Governor Board of Trustees of the State Employees Groups Benefits Program

Preferred Provider Organization (PPO)—
Plan of Benefits (LAC 32:III.Chapters 1-7)

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 has amended and readopted the entire Plan Document for the State Employees Group Benefits Program, designating it as the PPO Plan Document, repealing all provisions of the prior Plan document. The PPO Plan Document sets forth the terms and conditions pursuant to which eligibility and benefit determinations are made with regard to the self-insured health and accident benefits plan, designated as the PPO Plan, provided for state employees and their dependents pursuant to R.S. 42:851 et seq. as follows.

Title 32

EMPLOYEE BENEFITS

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

Chapter 1. Eligibility

§101. Persons To Be Covered

Eligibility requirements apply to all participants in the Program, whether in the PPO Plan, the EPO Plan or an HMO plan.

A. Employee Coverage

1. Employee – see §601.

2. Husband and Wife, Both Employees. No one may be enrolled simultaneously as an Employee and as a Dependent under the Plan, nor may a Dependent be covered by more than one Employee. If a covered spouse chooses at a later date to be covered separately, and is eligible for coverage as an Employee, that person will be a covered Employee effective the first day of the month after the election of separate coverage. The change in coverage will not increase the benefits.

3. Effective Dates of Coverage, New Employee. Coverage for each Employee who completes the applicable Enrollment Form and agrees to make the required payroll contributions to his Participant Employer is to be effective as follows.

a. If employment begins on the first day of the month, coverage is effective the first day of the following month.

b. If employment begins on the second day of the month or after, coverage is effective the first day of the second month following employment.

c. Employee Coverage will not become effective unless the Employee completes an application for coverage within 30 days following the date of employment. An Employee who completes an application after 30 days following the date of employment will be considered an overdue applicant.

4. Employee Deferral Rule

a. If an Employee is confined at home, in a Hospital, nursing home, or elsewhere, by reason of disease, illness, accident, or injury on the date the Employee would otherwise have become covered under this Plan, the effective date of the Employee and Dependent Coverage will be deferred until the date the Employee returns to work for one full day.

b. The return to active work requirement will not serve to defer an Employee's effective date of coverage in the event that the Employee's normal place of employment is not open on the day he would otherwise have returned to work. If an Employee is on an approved leave of absence on the day he would normally have returned to work, coverage will become effective on the day he returns to work.

5. Re-enrollment, Previous Employment

a. An Employee whose employment terminated while covered, who is re-employed within 12 months of the date of termination will be considered a Re-enrollment, Previous Employment applicant. A Re-enrollment Previous Employment applicant will be eligible for only that classification of coverage (Employee, Employee and one Dependent, Family) in force on the effective date of termination.

b. If an Employee acquires an additional Dependent during the period of termination, that Dependent may be covered if added within 30 days of re-employment.

6. Members of Boards and Commissions. Except as otherwise provided by law, members of boards or commissions are not eligible for participation in the Plan. This section does not apply to members of school boards or members of state boards or commissions who are defined by the Participant Employer as full time Employees.

7. Legislative Assistants. Legislative Assistants are eligible to participate in the Plan if they are declared to be full-time Employees by the Participant Employer and have at least one year of experience or receive at least 80% of their total compensation as Legislative Assistants.

B. Retiree Coverage

1. Eligibility. Retirees of Participant Employers are eligible for Retiree coverage under this Plan.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement, if the Retiree and Participant Employer have agreed to make and are making the required contributions. Retirees will not be eligible for coverage as overdue applicants.

b. A Retiree retired from one Participant Employer may be covered as an Employee of another Participant Employer or as a Retiree of the Participant Employer from which he retired, but not both. In order to retain eligibility, upon termination of employment from the later Participant

Employer, the Retiree must return to the retirement group of his original Participant Employer within 30 days.

c. The Retiree is responsible for notifying his initial Participant Employer of re-employment and return to Retiree status.

C. Dependent Coverage

1. Eligibility. A Dependent of an eligible Employee or Retiree will be eligible for Dependent Coverage on the later of the following dates:

- a. the date the Employee becomes eligible;
- b. the date the Retiree becomes eligible;
- c. the date the covered Employee or covered Retiree acquires a Dependent.

2. Effective Dates of Coverage

a. Dependents of Employees. Coverage for Dependents will be effective on the date the Employee becomes eligible for Dependent coverage.

b. Dependents of Retirees. Coverage for Dependents of Retirees will be effective on the first day of the month following the date of retirement if the Employee and his Dependents were covered immediately prior to retirement. Coverage for Dependents of Retirees first becoming eligible for Dependent Coverage following the date of retirement will be effective on the date of marriage for new spouses, the date of birth for newborn Children, or the Date Acquired for other classifications of Dependents, if application is made within 30 days of the date of eligibility.

c. Dependent Deferral Rule. If a Dependent, other than a newborn child or legal spouse of an Employee is confined at home, in a nursing home, Hospital, or elsewhere by reason of disease, illness, accident, or injury on the date he would otherwise become covered under this Plan, the effective date of that Dependent's Coverage will be deferred until the date confinement terminates or Disability ends, whichever is later.

D. Pre-Existing Condition (PEC) - Overdue Application

1. The terms of the following paragraphs apply to all eligible Employees who apply for coverage after 30 days from the date the Employee became eligible for coverage and to all eligible Dependents of Employees and Retirees for whom the application for coverage was not completed within 30 days from the Date Acquired. The provisions of this section do not apply to military reservists or national guardsmen ordered to active duty who return to state service and reapply for coverage with the Program within 30 days of the date of reemployment. Coverage will be reinstated effective on the date of return to state service. The effective date of coverage will be:

a. the first day of the month following the date of receipt by the Program of all required forms prior to the fifteenth of the month;

b. the first day of the second month following the date of the receipt by the Program of all required forms on or after the fifteenth of the month.

2. The Program will require that all overdue applicants complete a "Statement of Physical Condition" and an "Acknowledgement of Pre-existing Condition" form.

3. Medical expenses incurred during the first 12 months that coverage for the Employee and/or Dependent is in force under the Plan will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice,

diagnosis, care, or Treatment was recommended or received during the 6-month period immediately prior to the effective date of coverage. The provisions of this section do not apply to pregnancy.

4. If the Covered Person was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), credit will be given for previous coverage that occurred without a break of 63 days or more for the duration of prior coverage against the initial 12-month period. Any coverage occurring prior to a break in coverage 63 days or more will not be credited against a pre-existing condition exclusion period.

E. Special Enrollments - HIPAA. In accordance with HIPAA, certain eligible persons for whom the option to enroll for coverage was previously declined, and who would be considered overdue applicants, may enroll by written application to the Participant Employer under the following circumstances, terms and conditions for special enrollments:

1. Loss of Other Coverage. Special enrollment will be permitted for Employees or Dependents for whom the option to enroll for coverage was previously declined because the Employees or Dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the Plan participant; or

b. cessation of Participant Employer contributions for the other coverage, unless the Participant Employer contributions were ceased for cause or for failure of the individual participant to make contributions; or

c. the Employee or Dependent having had COBRA continuation coverage under a Group Health Plan and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquiring Dependents. Special enrollment will be permitted for Employees or Dependents for whom the option to enroll for coverage was previously declined when the Employee acquires a new Dependent by marriage, birth, adoption, or placement for adoption.

a. A special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new Dependent is acquired. Persons eligible for special enrollment for which an application is made more than 30 days after eligibility will be considered overdue applicants subject to a pre-existing condition limitation

b. The effective date of coverage shall be:

i. for loss of other coverage or marriage, the first day of the month following the date of receipt by the Program of all required forms for enrollment;

ii. for birth of a dependent, the date of birth;

iii. for adoption, the date of adoption or placement for adoption.

c. Special enrollment applicants must complete an "Acknowledgment of Pre-existing Condition" and "Statement of Physical Condition" form.

d. Medical expenses incurred during the first 12 months that coverage for the Special Enrollee is in force under this Plan will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care or Treatment was recommended or received during the 6-

month period immediately prior to the enrollment date. The provisions of this section do not apply to pregnancy.

e. If the Special Enrollee was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in HIPAA, the duration of the prior coverage will be credited against the initial 12-month period used by the Program to exclude benefits for a pre-existing condition if the termination under the prior coverage occurred within 63 days of the date of coverage under the Plan.

F. Retirees Special Enrollment. Retirees will not be eligible for special enrollment, except under the following conditions:

1. retirement began on or after July 1, 1997;
2. the Retiree can document that creditable coverage was in force at the time of the election not to participate or continue participation in the Plan;
3. the Retiree can demonstrate that creditable coverage was maintained continuously from the time of the election until the time of requesting special enrollment;
4. the Retiree has exhausted all COBRA and/or other continuation rights and has made a formal request to enroll within 30 days of the loss of other coverage; and
5. the Retiree has lost eligibility to maintain other coverage through no fault of his/her own and has no other creditable coverage in effect.

G. Health Maintenance Organization (HMO) Option

1. In lieu of participating in the Plan, Employees and Retirees may elect coverage under an approved HMO.

2. New Employees may elect to participate in an HMO during their initial period of eligibility. Each HMO will hold an annual enrollment period for a coverage effective date of July 1. Transfer of coverage from the Plan to the HMO or vice-versa will only be allowed during this annual enrollment period. Transfer of coverage will also be allowed as a consequence of the Employee being transferred into or out of the HMO geographic service area, with an effective date of the first day of the month following transfer. If a Covered Person has elected to transfer coverage, but is hospitalized on July 1, the plan, which is providing coverage prior to July 1, will continue to provide coverage up to the date of discharge from the Hospital.

H. Medicare Risk HMO Option for Retirees. Retirees who are eligible to participate in a Medicare Risk HMO plan who cancel coverage with the Program upon enrollment in a Medicare Risk HMO plan may re-enroll in the Program upon withdrawal from or termination of coverage in the Medicare Risk HMO plan, at the earlier of the following:

1. during the month of November, for coverage effective January 1; or
2. during the next annual enrollment, for coverage effective at the beginning of the next Plan year.

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 25:1825 (October 1999).

§103. Continued Coverage

A. Leave of Absence. If an Employee is allowed an approved leave of absence by his Participant Employer, he may retain his coverage for up to one year, if the premium is paid. Failure to do so will result in cancellation of coverage. The Program must be notified by the Employee and the

Participant Employer within 30 days of the effective date of the Leave of Absence.

B. Disability

1. Employees who have been granted a waiver of premium for Basic or Supplemental Life Insurance prior to July 1, 1984 may continue health coverage for the duration of the waiver if the Employee pays the total contribution to the Participant Employer. Disability waivers were discontinued effective July 1, 1984.

2. If a Participant Employer withdraws from the Plan, health and life coverage for all Covered Persons will terminate as of the effective date of withdrawal.

C. Surviving Dependents/Spouse. The provisions of this section are applicable to surviving Dependents who elect to continue coverage following the death of an Employee or Retiree. On or after July 1, 1999, eligibility ceases for a Covered Person who becomes eligible for coverage in a Group Health Plan other than Medicare. Coverage under the Group Health Plan may be subject to HIPAA.

1. Benefits under the Plan for covered Dependents of a deceased covered Employee or Retiree will terminate on the last day of the month in which the Employee's or Retiree's death occurred unless the surviving covered Dependents elect to continue coverage:

a. the surviving legal spouse of an Employee or Retiree may continue coverage until the surviving spouse becomes eligible for coverage in a Group Health Plan other than Medicare;

b. the surviving Children of an Employee or Retiree may continue coverage until they are eligible for coverage under a Group Health Plan other than Medicare, or until attainment of the termination age for Children, whichever occurs first;

c. surviving Dependents/Spouse will be entitled to receive the same Participant Employer premium contributions as Employees and Retirees.

d. coverage provided by the Civilian Health and Medical Program of the Uniform Services will not be sufficient to terminate the coverage of an otherwise eligible surviving legal spouse or a Dependent Child.

2. A surviving spouse or Dependent cannot add new Dependents to continued coverage other than a child of the deceased Employee born after the Employee's death.

3. Participant Employer/Dependent Responsibilities

a. It is the responsibility of the Participant Employer and surviving covered Dependent to notify the Program within 60 days of the death of the Employee or Retiree.

b. The Program will notify the surviving Dependents of their right to continue coverage.

c. Application for continued coverage must be made in writing to the Program within 60 days of receipt of notification, and premium payment must be made within 45 days of the date continued coverage is elected for coverage retroactive to the date coverage would have otherwise terminated;

d. Coverage for the surviving spouse under this section will continue until the earliest of the following events occurs:

- i. failure to pay the applicable premium;
- ii. death of the surviving spouse;

iii. on or after July 1, 1999, becomes eligible for coverage under a Group Health Plan other than Medicare.

e. Coverage for a surviving Dependent Child under this section will continue until the earliest of the following events:

- i. failure to pay the applicable premium;
- ii. on or after July 1, 1999, becomes eligible for coverage under any Group Health Plan other than Medicare;
- iii. the attainment of the termination age for Children.

D. Over-Age Dependents. If an unmarried, never married Dependent Child is incapable of self-sustaining employment by reason of mental retardation or physical incapacity and became incapable prior to the termination age for Children and is Dependent upon the covered Employee for support, the coverage for the Dependent Child may be continued for the duration of incapacity.

1. Prior to attainment of age 21 the Program must receive documentation for Dependents who are mentally retarded or who have a physical incapacity.

2. For purposes of this section, mental illness does not constitute mental retardation.

3. The Program may require that the covered Employee submit current proof from a licensed medical doctor of continued mental retardation or physical incapacity as often as it may deem necessary.

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 25:1827 (October 1999).

§105. COBRA

A. Employees

1. Benefits under this Plan for a covered Employee will terminate on the last day of the calendar month during which employment is terminated voluntarily or involuntarily, the Employee no longer meets the definition of an Employee or coverage under a Leave of Absence expires unless the covered Employee elects to continue at the Employee's own expense. Employees terminated for gross misconduct are not eligible for COBRA.

2. It is the responsibility of the Participant Employer to notify the Program within 30 days of the date coverage would have terminated because of any of the foregoing events and the Program will notify the Employee within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the Program within 60 days of the date of notification and premium payment must be made within 45 days of the date the Employee elects continued coverage, for coverage retroactive to the date coverage would have otherwise terminated. Coverage under this section will continue until the earliest of the following:

- a. failure to pay the applicable premium;
- b. 18 months from the date coverage would have terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, except when subject to a pre-existing condition limitation.

B. Surviving Dependents

1. Benefits for covered surviving Dependents of an Employee or Retiree will terminate on the last day of the month in which the Employee's or Retiree's death occurs,

unless the surviving covered Dependents elect to continue coverage at his/her own expense.

2. It is the responsibility of the Participant Employer or surviving covered Dependents to notify the Program within 30 days of the death of the Employee or Retiree. The Program will notify the surviving Dependents of their right to continue coverage. Application for continued coverage must be made in writing to the Program within 60 days of the date of notification. Premium payment must be made within 45 days of the date the continued coverage was elected, retroactive to the date coverage would have terminated.

a. Coverage for the surviving Dependents under this section will continue until the earliest of the following:

- i. failure to pay the applicable premium;
- ii. death of the surviving spouse;
- iii. entitlement to Medicare;
- iv. coverage under a Group Health Plan, except when subject to a pre-existing condition limitation.

b. Coverage for a surviving Dependent Child under this section will continue until the earliest of the following:

- i. failure to pay the applicable premium;
- ii. 36 months beyond the date coverage would have terminated;
- iii. entitlement to Medicare;
- iv. coverage under a Group Health Plan, except when subject to a pre-existing condition.

C. Divorced Spouse

1. Coverage under this Plan will terminate on the last day of the month during which dissolution of the marriage occurs by virtue of a legal decree of divorce from the Employee or Retiree, unless the covered divorced spouse elects to continue coverage at his or her own expense. It is the responsibility of the divorced spouse to notify the Program within 60 days from the date of divorce and the Program will notify the divorced spouse within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the Program within 60 days of notification. Premium payment must be made within 45 days of the date continued coverage is elected for coverage retroactive to the date coverage would have terminated.

2. Coverage for the divorced spouse under this section will continue until the earliest of the following:

- a. failure to pay the applicable premium;
- b. 36 months beyond the date coverage would have terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, except when subject to a pre-existing condition.

D. Dependent Children

1. Benefits under this Plan for a covered Dependent Child of a covered Employee or Retiree will terminate on the last day of the month during which the Dependent Child no longer meets the definition of an eligible covered Dependent, unless the Dependent elects to continue coverage at his or her own expense. It is the responsibility of the Dependent to notify the Program within 60 days of the date coverage would have terminated and the Program will notify the Dependent within 14 days of his or her right to continue coverage.

2. Application for continued coverage must be made in writing to the Program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continued coverage is elected, for coverage retroactive to the date coverage would have terminated.

3. Coverage for Children under this section will continue until the earliest of the following:

- a. failure to pay the applicable premium;
- b. 36 months beyond the date coverage would have terminated;
- c. entitlement to Medicare;
- d. coverage under a Group Health Plan, except when subject to a pre-existing condition.

E. Dependents of COBRA Participants

1. If a covered terminated Employee has elected to continue coverage and if during the period of continued coverage the covered spouse or a covered Dependent Child becomes ineligible for coverage due to:

- a. death of the employee;
- b. divorce from the Employee; or
- c. a Dependent Child no longer meets the definition of an eligible covered Dependent.

2. Then, the spouse and/or Dependent Child may elect to continue coverage at their own expense. Coverage will not be continued beyond 36 months from the date coverage would have terminated.

F. Dependents of Non-Participating Terminated Employee

1. If an Employee no longer meets the definition of an Employee, or a Leave of Absence has expired and the Employee has not elected to continue coverage, the covered spouse and/or covered Dependent Children may elect to continue coverage at their own expense. The elected coverage will be subject to the notification and termination provisions.

2. In the event a Dependent Child, covered under the provisions of the preceding paragraph no longer meets the definition of an eligible covered Dependent, he or she may elect to continue coverage at his or her own expense. Coverage cannot be continued beyond 36 months from the date coverage would have terminated.

G. Miscellaneous Provisions. During the period of continuation, benefits will be identical to those provided to others enrolled in this Plan under its standard eligibility provisions for Employee and Retirees.

H. Disability COBRA

1. If a Covered Employee or Covered Dependent is determined by Social Security or by the Program staff (in the case of a person who is ineligible for Social Security Disability due to insufficient "quarters" of employment), to have been totally disabled on the date the Covered Person became eligible for continued coverage or within the initial 18 months of coverage, coverage under this Plan for the Covered Person who is totally disabled may be extended at his or her own expense up to a maximum of 29 months from the date coverage would have terminated. To qualify the Covered Person must:

- a. submit a copy of his or her Social Security Disability determination to the Program before the initial 18-month continued coverage period expires and within 60 days

after the date of issuance of the Social Security determination; or

- b. submit proof of total Disability to the Program before the initial 18-month continued coverage period expires.

2. For purposes of eligibility for continued coverage under this section, total Disability means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of 12 months. To meet this definition one must have a severe impairment which makes one unable to do his previous work or any other substantial gainful activity which exists in the national economy, based upon a person's residual functional capacity, age, education and work experience.

3. The staff and medical director of the Program will make this determination of total Disability based upon medical evidence, not conclusions, presented by the applicant's physicians, work history, and other relevant evidence presented by the applicant.

4. Coverage under this section will continue until the earliest of the following:

- a. 30 days after the month in which Social Security determines that the Covered Person is no longer disabled. (The Covered Person must report the determination to the Program within 30 days after the date of issuance by Social Security);

- b. 29 months from the date coverage would have terminated.

I. Medicare COBRA. If an Employee becomes entitled to Medicare on or before the date the Employee's eligibility for benefits under this Plan terminates, the period of continued coverage available for the Employee's covered Dependents will be the earliest of the following:

1. failure to pay the applicable premium;
2. 36 months beyond the date coverage would have terminated;
3. entitlement to Medicare;
4. coverage under a Group Health Plan, except when subject to a pre-existing condition.

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 25:1828 (October 1999).

§107. Change of Classification

A. Adding or Deleting Dependents. The Plan Member must notify the Program whenever a Dependent is added to, or deleted from, the Plan Member's coverage, regardless of whether the addition or deletion would result in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. Change in Coverage

1. When, by reason of a change in family status (e.g., marriage, birth of child), the class of coverage is subject to change, effective on the date of the event, if application for the change is made within 30 days of the date of the event.

2. When the addition of a Dependent results in the class of coverage being changed, the additional premium will be charged for the entire month if the date of change occurs on or before the fourteenth day of the month. If the date of change occurs on or after the fifteenth day of the

month, additional premium will not be charged until the first day of the following month.

C. Notification of Change. It is the responsibility of the Employee to notify the Program of any change in classification of coverage affecting the Employee's contribution amount. Any such failure later determined will be corrected on the first day of the following month.

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 25:1829 (October 1999).

§109. Contributions

The State of Louisiana may make a contribution toward the cost of the Plan, as determined on an annual basis by the Legislature.

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 25:1830 (October 1999).

Chapter 2. Termination of Coverage

§201. Active Employee and Retired Employee Coverage

A. Subject to continuation of coverage and COBRA rules, all benefits of a Covered Person will terminate under these Plan on the earliest of the following dates:

1. on the date the Program terminates;
2. on the date the group or agency employing the covered Employee terminates or withdraws from the Program;
3. on the contribution due date if the group or agency fails to pay the required contribution for the covered Employee;
4. on the contribution due date if the Covered Person fails to make any contribution which is required for the continuation of his coverage;
5. on the last day of the month of the covered Employee's death;
6. on the last day of the month in which the covered Employee ceases to be eligible.

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 25:1830 (October 1999).

§203. Dependent Coverage Only

A. Subject to continuation of coverage and COBRA rules, Dependent coverage will terminate under this Plan on the earliest of the following dates:

1. on the last day of the month the Employee ceases to be covered;
2. on the last day of the month in which the Dependent, as defined in this Plan ceases to be an eligible Dependent of the covered Employee;
3. for grandchildren for whom the employee does not have legal custody or has not adopted, on the date the child's parent ceases to be a covered dependent under this Plan or the grandchild no longer meets the definition of Children;
4. upon discontinuance of all Dependent coverage under this Plan.

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 25:1830 (October 1999).

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses are Incurred by a Covered Person

A. Eligible Expenses. Eligible expenses are the charges incurred for the following items of service and supply. These charges are subject to the applicable deductibles, limits of the Fee Schedule, Schedule of Benefits, exclusions and other provisions of the Plan. A charge is incurred on the date that the service or supply is performed or furnished. Eligible expenses are:

1. hospital care. The medical services and supplies furnished by a Hospital or Ambulatory Surgical Center. Covered charges for Room and Board will be payable as shown in the Schedule of Benefits;
2. services of a physician;
3. routine nursing services, i.e., "floor nursing" services provided by nurses employed by the Hospital are considered as part of the Room and Board;
4. anesthesia and its administration;
5. laboratory examinations and diagnostic X-rays;
6. nuclear medicine and electroshock therapy;
7. blood and blood plasma, blood derivatives and blood processing, when not replaced;
8. surgical and medical supplies billed for treatment received in a hospital or ambulatory surgical center, and other covered provider's surgical and medical supplies as listed below:

- a. catheters - external and internal;
- b. cervical collar;
- c. leg bags for urinal drainage;
- d. ostomy supplies;
- e. prosthetic socks;
- f. prosthetic sheath;
- g. sling (arm or wrist);
- h. suction catheter for oral evacuation;
- i. surgical shoe (following foot surgery only);
- j. plaster casts;
- k. splints;
- l. surgical trays (for certain procedures);

9. services of licensed physical, occupational or speech therapist when prescribed by a physician and pre-approved through Outpatient Certification Procedure;

10. intravenous injections, solutions, and eligible related intravenous supplies;

11. services rendered by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) for the Treatment of accidental injuries to a Covered Person's sound natural teeth, if:

- a. coverage was in effect with respect to the individual at the time of the accident;
- b. treatment commences within 90 days from the date of the accident and is completed within two years from the date of the accident; and
- c. coverage remains continuously in effect with respect to the Covered Person during the course of the Treatment; eligible expenses will be limited to the original estimated total cost of Treatment as estimated at the time of initial Treatment;

12. durable medical equipment, subject to the lifetime maximum payment limitation as listed in the Schedule of Benefits. The Program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time it will be used;

13. initial prosthetic appliances. Subsequent prosthetic appliances are eligible only when acceptable certification is furnished to the Program by the attending Physician;

14. professional ambulance services, subject to the following provisions:

a. licensed professional ambulance service in a vehicle licensed for highway use to or from a Hospital with facilities to treat an illness or injury. The Program will consider a maximum up to \$350 less a \$50 copayment for transportation charges. Medical services and supplies will be considered separately;

b. licensed air ambulance service to a Hospital with facilities to treat an illness or injury. The Program will consider a maximum up to \$1,500 less a \$250 copayment. Medical services and supplies will be considered separately;

15. one pair of eyeglass lenses or contact lenses required as a result of bilateral cataract surgery performed while coverage was in force. Expenses incurred for the eyeglass frames will be limited to a maximum benefit of \$50.00;

16. the first two pairs of surgical pressure support hose. Additional surgical support hose may be considered an eligible expense at the rate of one pair per six-month period;

17. the first two ortho-mammary surgical brassieres. Additional ortho-mammary surgical brassieres may be considered an eligible expense at the rate of one per six-month period;

18. orthopedic shoes prescribed by a Physician and completely custom built;

19. acupuncture when rendered by a medical doctor;

20. eligible expenses associated with an organ transplant procedure including expenses for patient screening, organ procurement, transportation of the organ, transportation of the patient and/or donor, surgery for the patient and donor and immunosuppressant drugs, if:

a. the transplantation must not be considered experimental or investigational by the American Medical Association;

b. the transplant surgery must be performed at a medical center, which has an approved transplant program as determined by Medicare;

c. the Plan will not cover expenses for the transportation of surgeons or family members of either the patient or donor;

d. all benefits paid will be applied against the lifetime maximum benefit of the transplant recipient;

21. services of a physical therapist and occupational therapist licensed by the state in which the services are rendered when prescribed by a licensed medical doctor:

a. services require the skills of and performed by a licensed physical therapist or licensed occupational therapist;

b. restorative potential exists;

c. meets the standard for medical practice;

d. reasonable and necessary for the Treatment of the disease, illness, accident, injury or post operative condition;

e. approved through outpatient procedure certification;

22. cardiac rehabilitation when:

a. rendered at a medical facility under the supervision of a Physician;

b. rendered in connection with a myocardial infarction, angioplasty with or without stenting, or cardiac bypass surgery;

c. completed within 6 months following the qualifying event;

Note: Charges incurred for dietary instruction, educational services, behavior modification literature, health club membership, exercise equipment, preventative programs, and any other items excluded by the Plan are not covered.

23. routine physical examinations and immunizations as follows:

a. well-baby care expenses subject to the annual deductible and copayments:

i. newborn facility and professional charges;

ii. birth to age 1 – all office visits for scheduled immunizations and screening;

b. Well-Child Care expenses subject to the annual deductible and copayments:

i. age 1 to age 3 - 3 office visits per year for scheduled immunizations and screening;

ii. age 3 to age 16 - 1 office visit per year for scheduled immunizations and screening;

c. well-adult care expenses not subject to the annual deductible, but limited to a maximum benefit of \$200.00:

i. age 16 to age 40 - 1 physical every 3 years;

ii. age 40 to age 50 - 1 physical every 2 years;

iii. age 50 and over - 1 physical every year;

24. not subject to the annual deductible:

a. one pap test for cervical cancer per calendar year;

b. screening mammographic examinations performed according to the following schedule:

i. one baseline mammogram during the five-year period a person is 35-39 years of age;

ii. one mammogram every two calendar years for any person who is 40-49 years of age or more frequently if recommended by a Physician;

iii. one mammogram every 12 months for any person who is 50 years of age or older;

c. testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every twelve months for men over the age of 50 years, and as medically necessary for men over the age of 40 years;

25. outpatient surgical facility fees as specified in the maximum payment schedule;

26. midwifery services performed by a certified midwife or a certified nurse midwife;

27. physician's assistants, perfusionists, and registered nurse assistants assisting in the operating room;

28. splint therapy for the treatment of temporomandibular joint dysfunction (tmj), limited to a lifetime benefit of \$600 for a splint and initial panorex x-ray only. Surgical treatment for tmj will only be eligible following a demonstrated failure of splint therapy and upon approval by the program;

29. oxygen and oxygen equipment;

30. outpatient self-management training and education, including medical nutrition therapy, for the Treatment of

diabetes, when these services are provided by a licensed health care professional with demonstrated expertise in diabetes care and treatment who has completed an educational program required by the appropriate licensing board in compliance with the national standards for diabetes self-management education program as developed by the American Diabetes Association, and only as follows:

a. a one-time evaluation and training program for diabetes self management, conducted by the health care professional in compliance with National Standards for Diabetes Self Management Education Program as developed by the American Diabetes Association, upon certification by the health care professional that the covered person has successfully completed the program, such benefits not to exceed \$500;

b. additional diabetes self-management training required because of a significant change in the patient's symptoms or conditions, limited to benefits of \$100 per year and \$2,000 per lifetime;

c. services must be rendered at a facility with a diabetes educational program recognized by the American Diabetes Association;

31. testing of sleep disorders only when the tests are performed at a facility accredited by the American Sleep Disorders Association. No benefits are payable for surgical Treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical Treatment and upon approval by the Program;

32. mental health and/or substance abuse services only when obtained through the Program's managed care contractor as shown in the Schedule of Benefits. These services must be identified by a DSM IV diagnosis code.

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 25:1830 (October 1999).

§303. Fee Schedule

A. The Fee Schedule sets the maximum fee that the Program will allow for an eligible medical expense.

B. If the medical provider accepts an assignment of benefits, the Plan Member cannot be billed for amounts exceeding the Fee Schedule.

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 25:1832 (October 1999).

§305. Automated Claims Adjusting

Auto Audit is a software program that applies all claims against its medical logic program to identify improperly billed charges, and charges for which this Plan provides no benefits. Any claim with diagnosis or procedure codes deemed inadequate or inappropriate will be automatically reduced or denied. Providers accepting assignment of benefits cannot bill the Plan Member for the reduced amounts.

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 25:1832 (October 1999).

§307. Utilization Review—Pre-admission Certification, Continued Stay Review

A. Pre-Admission Certification (PAC) and Continued Stay Review (CSR) establish the medical necessity and length of inpatient Hospital confinement.

1. It is the Plan Member's responsibility to assure that PAC is obtained for non-PPO facilities.

2. It is the Provider's responsibility to obtain PAC for PPO facilities. If the provider fails to do this, the Plan Member cannot be billed for any amount not covered by this Plan.

B. For a routine vaginal delivery, PAC is not required for a stay of 2 days or less. If the mother's stay exceeds or is expected to exceed 2 days, PAC is required within 24 hours after the delivery or the date on which any complications arose, whichever is applicable. If the baby's stay exceeds that of the mother, PAC is required within 72 hours of the mother's discharge and a separate precertification number must be obtained for the baby. In the case of a scheduled Caesarean Section, it is required that PAC be obtained prior to or the day of admission.

C. No benefits will be paid under the Plan:

1. unless PAC is requested at least 72 hours prior to the planned date of admission;

2. unless PAC is requested within 48 hours of admission in the case of an emergency;

3. for Hospital charges incurred during any confinement for which PAC was requested, but which was not certified as Medically Necessary by the Program's utilization review contractor;

4. for Hospital charges incurred during any confinement for any days in excess of the number of days certified through PAC or CSR.

D. Benefits otherwise payable for services at a non-PPO facility will be reduced by 25 percent on any confinement for which PAC was not obtained.

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 25:1832 (October 1999).

§309. Outpatient Procedure Certification (OPC)

A. OPC certifies that certain outpatient procedures and therapies are Medically Necessary.

1. It is the Plan Member's responsibility to assure that OPC is obtained on services performed by non-PPO providers;

2. On services performed by a PPO provider, it is the provider's responsibility to obtain OPC. The Plan Member cannot be billed if the provider fails to do so.

B. OPC is required on the following procedures:

1. cataract;
2. laparoscopic cholecystectomy;
3. lithotripsy;
4. magnetic resonance imaging:
 - a. brain/head lower extremity;
 - b. upper extremity;
 - c. spine;
5. knee arthroscopy;
6. septoplasty;
7. therapies;

- a. physical therapy;
- b. speech therapy;
- c. occupational therapy;
- d. therapy with unlisted modality.

C. No benefits will be paid for the facility fee in connection with outpatient procedures, or the facility and professional fee in connection with outpatient therapies:

1. unless OPC is requested at least 72 hours prior to the planned date of procedure or therapy;
2. for charges incurred on any listed procedure for which OPC was requested but not certified as Medically Necessary by the Program's utilization review contractor.

D. Benefits otherwise payable for services rendered by a non-PPO provider will be reduced by 25 percent for any procedure or therapy on which OPC was not obtained.

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 25:1832 (October 1999).

§311. Case Management

A. Case Management (CM) is the managed care program available in cases of illness or injury where critical care is required and/or Treatment of extended duration is anticipated.

B. Case Management may provide coverage for services that are not normally covered. To be eligible, the condition being treated must be a covered condition, and Case Management must be approved prior to the service being rendered.

C. These charges are subject to the deductible, co-insurance, Fee Schedule and maximum benefit limitations.

D. The following criteria must be met:

1. The Program must be the primary carrier at the time Case Management is requested. Any Case Management plan will be contingent upon the Program remaining the primary carrier.
 2. The patient must not be confined in any type of nursing home setting at the time Case Management is requested.
 3. There must be a projected savings to the Program through Case Management; or a projection that Case Management expenses will not exceed normal Plan benefits; and
 - a. the proposed Treatment plan will enhance the patient's quality of life;
 - b. benefits will be utilized at a slower rate through the alternative Treatment plan.
- E. If approved, Case Management may provide any of the following:
1. alternative care in special rehabilitation facilities;
 2. alternative care in a skilled nursing facility/unit or swing bed (not nursing home), or the patient's home, subject to the deductible and coinsurance;
 3. avoidance of complications by earlier Hospital discharge, alternative care and training of the patient and/or family;
 4. home health care services limited to 150 visits per Plan year;
 5. hospice care:
 - a. not subject to the deductible;
 - b. benefits are always payable at 80 percent, never at 100 percent.

6. private duty nursing care;
7. total parenteral nutrition provided that home visits for TPN are not reimbursable separately;
8. enteral nutrition up to a single 90-day period for instances where through surgery or neuromuscular mechanisms, the patient cannot maintain nutrition and the condition can reasonably be expected to improve during this one 90-day timespan.

F. Mental health and substance abuse Treatments or conditions are not eligible for Case Management.

G. Benefits are considered payable only upon the recommendation of the Program's contractor, with the approval of the attending Physician, patient or his representative, and the Program or its representative. Approval is contingent upon the professional opinion of the Program's medical director, consultant, or his designee as to the appropriateness of the recommended alternative care.

H. If a condition is likely to be lengthy or if care could be provided in a less costly setting, the Program's contractor may recommend an alternative plan of care to the Physician and patient.

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 25:1833 (October 1999).

§313. Dental Surgical Benefits

A. When excision of one or more impacted teeth is performed by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) while coverage is in force, the Program will pay, without deductible, the eligible expense actually incurred for the surgical procedure.

B. Expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care are subject to the deductible, co-insurance and the maximum benefit provisions of the Plan.

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 25:1833 (October 1999).

§315. Medicare Reduction

A. If the patient has not chosen and paid a separate premium for the full coordination of benefits option, the charges will be reduced by whatever amounts are paid or payable by Medicare. The Program requires written confirmation from the Social Security Administration or its successor if a person is not eligible for Medicare coverage. All provisions of this Plan, including all limitations and exceptions, will be applied.

B. Retiree 100-Medicare COB - Upon enrollment and payment of the additional monthly premium, a Plan Member and his Dependents may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare or within 30 days of retirement if already eligible for Medicare and at the annual open enrollment.

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 25:1833 (October 1999).

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this Plan for:

1. cases covered, in whole or in part, by any worker's compensation program, regardless of whether the patient has filed a claim for benefits. this applies to compensation provided on an expense-incurred basis or blanket settlements for past and future losses;

2. convalescent, skilled nursing, sanitarium, or Custodial Care or Rest Cure;

3. expenses for elective, non-therapeutic voluntary abortion, although expenses for complications as a result are covered;

4. intentionally self-inflicted injuries, injuries sustained while in an aggressor role, or any attempt at suicide;

5. expenses incurred as a result of the patient's attempt at a felony or misdemeanor;

6. expenses incurred by a Covered Person in connection with cosmetic surgery, unless necessary for the immediate repair of a deformity caused by a Disease and/or Injury which occurs while coverage is in force. No payment will be made for expenses incurred in connection with the Treatment of any body part not affected by the Disease and/or Injury;

7. expenses incurred for shoes and related items similar to wedges, cookies and arch supports;

8. any expense, except for actual out-of-pocket expenses, incurred by a member of a Health Maintenance Organization (HMO), Health Maintenance Plan (HMP) or other prepaid medical plan or medical services plan if the Covered Person is enrolled on a group (employer-sponsored) basis;

9. dental braces and orthodontic appliances (for whatever reason prescribed or utilized) and Treatment of periodontal disease;

10. dentures, dental implants and any surgery for their use, except if needed as the result of an accident that meets the program's requirements;

11. medical services, Treatment or Prescription Drugs provided without charge to the Covered Person or for which the covered Person is not legally obligated to pay;

12. maternity expenses incurred by any person other than the employee or the employee's legal spouse;

13. personal convenience items including, but not limited to, admit kits, bedside kits, telephone and television, guest meals, beds, and similar items;

14. charges for services and supplies which are in excess of the maximum allowable under the medical fee schedule, outpatient surgical facility fee schedule, or any other limitations of the plan;

15. services and supplies which are not medically necessary;

16. services rendered for remedial reading and recreational, visual and behavioral modification therapy, Pain Rehabilitation Control and/or Therapy, and dietary or educational instruction for all illnesses, other than diabetes;

17. services and supplies in connection with or related to: gender dysphoria or reverse sterilization;

18. artificial organ implants, penile implants, transplantation of other than homo sapiens (human) organs;

19. expenses after the initial diagnosis, for infertility and complications, including, but not limited to, services, drugs, and procedures or devices to achieve fertility; in-vitro fertilization, low tubal transfer, artificial insemination, intracytoplasmic sperm injection, embryo transfer, gamete transfer, zygote transfer, surrogate parenting, donor semen, donor eggs, and reversal of sterilization procedures;

20. air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, cold devices, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, and any other items not normally considered medical supplies;

21. administrative fees, interest, penalties or sales tax;

22. marriage counseling and/or family relations counseling;

23. charges for services rendered over the telephone from a physician to a covered person;

24. radial keratotomy or any procedures for the correction of refractive errors;

25. speech therapy, except when ordered by a physician for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurological disease;

26. services and supplies related to obesity, surgery for excess fat in any area of the body, resection of excess skin or fat following weight loss or pregnancy;

27. hearing aids, or any examination to determine the fitting or necessity;

28. hair transplants;

29. routine physical examinations or immunizations not listed under Eligible Expenses;

30. diagnostic or treatment measures which are not recognized as generally accepted medical practice;

31. medical supplies not listed under eligible expenses;

32. treatment or services for mental health and substance abuse provided outside the treatment plan developed by the Program's managed care contractor or by therapists with whom or at facilities with which the Program's managed care contractor does not have a contract;

33. expenses for services rendered by a dentist or oral surgeon and any ancillary or related services, except for covered dental surgical procedures, dental procedures which fall under the guidelines of eligible dental accidents, procedures necessitated as a result of or secondary to cancer, or oral and maxillofacial surgeries which are shown to the satisfaction of the Program to be Medically Necessary, non-dental, non-cosmetic procedures;

34. genetic testing, except when determined to be Medically Necessary during a covered pregnancy;

34. Treatment for Temporomandibular Joint Dysfunction (TMJ), except as listed under Eligible Expenses;

35. services of a private-duty registered nurse (R.N.) or of a private-duty licensed practical nurse (L.P.N.);

36. breast thermograms;

37. services rendered by any provider related to the patient by blood, adoption or marriage;

38. expenses from a provider who is not licensed in the state where services are rendered.

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).

§319. Coordination of Benefits

A. Coordination of benefits is the order of payment when two or more plans are involved. When a patient is also covered by another plan, the plans will coordinate benefits.

B. Benefit plan is this Plan or any one of the following:

1. group or employer sponsored plan;
2. group practice and other group prepayment plan;
3. other plans required or provided by law. This does not include Medicaid or any benefit plan that does not allow coordination.

C. Primary Plan and Secondary Plan

1. All benefits provided are subject to coordination of benefits;

2. Benefit plan payment order:

a. If an individual is covered by more than one plan, the order of benefit payment will follow guidelines established by the National Association of Insurance Commissioners, except for Health Maintenance Organizations or other types of employer-sponsored prepaid medical plans;

b. The plan that pays first will pay as if there were no other plan involved. The secondary and subsequent plans may pay the balance due up to 100% of the total allowable expense. No plan will pay benefits greater than it would have paid in the absence of coordination of benefits.

D. Health Maintenance Organizations (HMO). If a Person is also covered as a Dependent under a Health Maintenance Organization (HMO), the Program will consider the HMO as the primary carrier. The Plan will consider as eligible only those actual out-of-pocket expenses incurred that the patient is legally obligated to pay.

E. Preferred Provider Organizations (PPO). In the event that a Covered Person is also covered as a Dependent under a PPO contract, the Plan will consider as eligible only those expenses actually incurred by the Covered Person under the terms of the PPO contract, and for which the Covered Person is legally obligated to pay.

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 25:1835 (October 1999).

§321. Preferred Provider Program

A. The Program may implement Preferred Provider Organization (PPO) arrangements or other agreements to discount payable fees. The Program reserves to itself the right to negotiate the amount of the discount, the incentives to be offered to Plan Members and all other provisions which are a part of any discount fee arrangement. To be eligible, the Program must be the primary carrier at the time services are rendered. The only exception would be on a Covered Person with only Medicare Part A, who did not also have Part B. The Part B charges would be eligible for PPO Benefits.

1. If a Covered Person obtains medical services or Hospital services from an eligible provider who has agreed to provide the services at a mutually agreed upon discount from the maximum medical Fee Schedule or at a per diem or

discounted rate from a Hospital, the Program will pay, following satisfaction of all applicable deductibles, 90 percent of the first \$5,000 of eligible expenses and 100 percent of eligible expenses, except prescription drugs, in excess of \$5,000 for the remainder of the Calendar Year subject to the maximum amount as specified in the Schedule of Benefits.

2. Point of Service PPO Regions (Areas)

a. The following regions are used to determine whether there is a PPO provider in the same area as the point of service:

Region 1 - Zip Codes 70000 through 70199

Region 2 - Zip Codes 70300 through 70399

Region 3 - Zip Codes 70400 through 70499

Region 4 - Zip Codes 70500 through 70599

Region 5 - Zip Codes 70600 through 70699

Region 6 - Zip Codes 70700 through 70899

Region 7 - Zip Codes 71300 through 71499

Region 8 - Zip Codes 71000 through 71199

Region 9 - Zip Codes 71200 through 71299

b. If a non-PPO provider is used in an area where there are PPO providers of the same service, then the Plan Member is reimbursed 50% of the eligible expenses. If there is no PPO provider of the same service in the area where the service is provided, then the Plan Member is reimbursed 80% of eligible expenses. If services are received from a PPO, then services are reimbursed at 90% of the PPO rate with payments made to the PPO provider. These are all made subject to deductibles to the PPO provider. There is contractual assignment to every PPO provider.

c. A Non-PPO Hospital will be paid, after applicable deductibles, 80 percent of eligible expenses for Emergency Room Services provided at the Hospital Emergency Room and billed by that Hospital. The Plan Member has the responsibility for establishing that the Treatment services were Emergency Room Services, as defined by the Program.

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 25:1835 (October 1999).

§323. Prescription Drug Benefits

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, and prescription Potassium Chloride. In addition:

1. drugs prescribed for Treatment of impotence, only for males over the age of thirty, in a quantity not greater than five (5) per month. No benefits are payable for Yohimbine oral tablets, self-injectables Papaverine and Phentolamine, or any other drugs prescribed or dispensed for Treatment of impotence unless such Treatment is indicated in the FDA approval of the drug;

2. over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of minoxidil;
4. retin-a dispensed for a covered person over age 26
5. amphetamines dispensed for diagnoses other than attention deficit disorder or narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals;
9. drugs available over the counter; and
10. serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting.

C. Outpatient prescription drug benefits are adjudicated by a third-party prescription benefits manager with whom the Program has contracted. In addition to all provisions, exclusions and limitations relative to prescription drugs set forth elsewhere in this Plan Document, the following apply to expenses incurred for outpatient prescription drugs.

1. Upon presentation of the Group Benefits Program Health Benefits Identification Card at a network pharmacy, the Plan Member will be responsible for copayment of \$8.00 per prescription when a generic drug is dispensed and \$22.00 per prescription when a brand name drug is dispensed. The copayment cannot exceed the actual charge by the pharmacy for the drug.

2. In the event the Plan Member does not present the Group Benefits Program Identification Card to the network pharmacy at the time of purchase, the Plan Member will be responsible for full payment for the drug and must then file a claim with the Prescription benefits manager for reimbursement, which will be limited to the rates established for non-network pharmacies.

3. If the Plan Member obtains a prescription drug from a non-network pharmacy in state, benefits will be limited to 50 percent. Out-of-state benefits will be limited to 80 percent.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge and eligible expenses for generic drugs will be limited to the prescription benefits manager's generic maximum allowable charge.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

- a. up to a 34-day supply of acute drugs may be dispensed at one time;
- b. up to a 90-day supply of maintenance drugs may be dispensed at one time; and
- c. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

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 25:1835 (October 1999).

Chapter 4. Uniform Provisions

§401. Statement Of Contractual Agreement

This written Plan Document as amended and any documents executed by or on behalf of the covered Employee constitute the entire agreement between the parties.

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 25:1836 (October 1999).

§403. Properly Submitted Claim

A. For Plan reimbursements, all bills must show:

1. employee's name;
2. name of patient;
3. name, address, and telephone number of the provider of care;
4. diagnosis;
5. type of services rendered, with diagnosis and/or procedure codes;
6. date of service;
7. charges;
8. employee's member number;
9. provider tax identification number;
10. Medicare explanation of benefits, if applicable.

B. The Program can require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish the requested information will constitute reason for the denial of benefits.

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 25:1836 (October 1999).

§405. When Claims Must be Filed

A claim for benefits must be received by the Program by 4:30 p.m. on June 30 next following the end of the Calendar Year in which the medical expenses were incurred.

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 25:1836 (October 1999).

§407. Right to Receive and Release Information

The Program may release to, or obtain from any company, organization, or person, without consent of or notice to any person, any information regarding any person which the Program deems necessary to carry out the provisions of this Plan, or like terms of any Plan, or to determine how, or if, they apply. Any claimant under this Plan must furnish to the Program any information necessary to implement this provision.

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 25:1836 (October 1999).

§409. Legal Limitations

A Plan Member must exhaust the claims appeal procedure before filing a suit for benefits.

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 25:1836 (October 1999).

§411. Benefit Payments to Other Group Health Plans

When payments, which should have been made under this Plan, have been made by another Group Health Plan, the Program may pay to the other plan the sum proper to satisfy the terms of this Plan Document.

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 25:1837 (October 1999).

§413. Recovery of Overpayments

If an overpayment occurs, the Program retains the right to recover the overpayment. The Covered Person, institution or provider receiving the overpayment must return the overpayment. At the Plan's discretion, the overpayment may be deducted from future claims. Should legal action be required as a result of fraudulent statements or deliberate omissions on the application, the defendant will be responsible for attorney fees of 25 percent of the overpayment or \$1,000 whichever is greater. The defendant will also be responsible for court costs and legal interest from date of judicial demand until paid.

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 25:1837 (October 1999).

§415. Third Party Recovery Provision

A. Right of Subrogation and Reimbursement. When this provision applies, the Covered Person may incur medical or dental charges due to injuries which may be caused by the act or omission of a third party or a third party may be responsible for payment. In such circumstances, the Covered Person may have a claim against the third party, or insurer, for payment of the medical or dental charges. Accepting benefits under this Plan for those incurred medical or dental expenses automatically assigns to the Program any rights the Covered Person may have to recover payments from any third party or insurer. This right allows the Program to pursue any claim which the Covered Person has against any third party, or insurer, whether or not the Covered Person chooses to pursue that claim. The Program may make a claim directly against the third party or insurer, but in any event, the Program has a lien on any amount recovered by the Covered Person whether or not designated as payment for medical expenses. This lien will remain in effect until the Program is repaid in full. The Program reserves the right to recover either from the liable third party or the Covered Person. The Covered Person:

1. automatically assigns to the Program his or her rights against any third party or insurer when this provision applies;

2. must notify the Program of a pending third-party claim; and

3. must repay to the Program the benefits paid on his or her behalf out of the recovery made from the third party or insurer.

B. Amount Subject to Subrogation or Reimbursement

1. The Covered Person agrees to recognize the Program's right to subrogation and reimbursement. These

rights provide the Program with a priority over any funds paid by a third party to a Covered Person relative to the Injury or Sickness, including a priority over any claim for non-medical or dental charges, attorney fees, or other costs and expenses.

2. Notwithstanding its priority to funds, the Program's subrogation and reimbursement rights, as well as the rights assigned to it, are limited to the extent to which the Program has made, or will make, payments for medical or dental charges as well as any costs and fees associated with the enforcement of its rights under the Program.

3. When a right of recovery exists, the Covered Person will cooperate and provide requested information as well as doing whatever else is needed to secure the Program's right of subrogation and reimbursement as a condition to having the Program make payments. In addition, the Covered Person will do nothing to prejudice the right of the Program to subrogate or seek reimbursement.

4. This right of refund also applies when a Covered Person recovers under an uninsured or underinsured motorist plan, homeowner's plan, renter's plan, medical malpractice plan, worker's compensation plan or any liability plan.

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 25:1837 (October 1999).

§417. Employer Responsibility

It is the responsibility of the Participant Employer to submit enrollment and change forms and all other necessary documentation on behalf of their employees to the Program. Employees of a Participant Employer will not by virtue of furnishing any documentation to the Program on behalf of a Plan Member, be considered agents of the Program, and no representation made by any such person at any time will change the provisions of this Plan.

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 25:1837 (October 1999).

§419. Program Responsibility

The Program will administer the Plan in accordance with the terms of the Plan Document, state and federal law, and its established policies, interpretations, practices, and procedures. It is the express intent of this Program that the Board of Trustees will have maximum legal discretionary authority to construe and interpret the terms and provisions of the Plan, to make determinations regarding issues which relate to eligibility for benefits, to decide disputes which may arise relative to Covered Person's rights, and to decide questions of Plan Document interpretation and those of fact relating to the Plan Document. The decisions of the Board of Trustees or its Committees will be final and binding on all interested parties.

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 25:1837 (October 1999).

§421. Reinstatement to Position Following Civil Service Appeal

A. Indemnity Plan Participants. When coverage of a terminated Employee who was a participant in the health

indemnity plan is reinstated by reason of a civil service appeal, coverage will be reinstated to the same level in the health indemnity plan retroactive to the date coverage terminated. The Employee and Participant Employer are responsible for the payment of all premiums for the period of time from the date of termination to the date of the final order reinstating the Employee to his position. The Program is responsible for the payment of all eligible benefits for charges incurred during this period. All claims for expenses incurred during this period must be filed with the Program within 60 days following the date of the final order of reinstatement.

B. Health Maintenance Organization (HMO) Participants. When coverage of a terminated Employee who was a participant in an HMO is reinstated by reason of Civil Service appeal, coverage will be reinstated in the HMO in which the Employee was participating effective on the date of the final order of reinstatement. There will be no retroactive reinstatement of coverage and no premiums will be owed for the period during which coverage with the HMO was not effective.

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 25:1837 (October 1999).

§423. Plan Document and/or Contract Amendments or Termination

The Program has the statutory responsibility of providing health and accident and death benefits for Covered Persons to the extent that funds are available. The Program reserves to itself the right to terminate or amend the eligibility and benefit provisions of its Plan Document from time to time as it may deem necessary to prudently discharge its duties. Termination or modifications will be promulgated subject to the applicable provisions of law, and nothing contained herein shall be construed to guarantee or vest benefits for any participant, whether active or retired.

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 25:1838 (October 1999).

Chapter 5. Claims Review and Appeal

This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

§501. Claims Review Procedure and Appeals

A. In cases where a claim for benefits payment is denied, the Covered Person may appeal the denial. Issues involving eligibility may also be appealed. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the Covered Person, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

B. The request for review must be directed to the CEO within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review, pharmacy benefit or mental health contractors.

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 25:1838 (October 1999).

§503. Review and Appeal Prerequisite to Legal Action

The Covered Person must exhaust the claims appeal procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought against the Program to attempt to establish eligibility or to recover benefits allegedly payable under the Program.

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 25:1838 (October 1999).

§505. Grievance Committee

The Chairman of the Board of Trustees will appoint a Grievance Committee that has authority to hear and decide all Appeals. The Committee may appoint a Referee to take testimony in and to hear all Appeals.

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 25:1838 (October 1999).

§507. Assignment of Appeals for Hearing

Unless an informal disposition is made, a Notice of the time and place fixed for the hearing will be mailed to the Plan Member at least twenty (20) calendar days prior to the date of the hearing. Appeals of utilization review, pharmacy benefit or mental health issues must first be heard by the respective contractor's appeal process before submitting a request for review to the Program.

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 25:1838 (October 1999).

§509. Procedure for Hearing Appeals

A. Unless requested by the Covered Person, hearings will be closed to the public. In that event, the hearing will be open except to the extent that other legitimate purposes can only be protected by closing portions of the hearing.

B. The Covered Person has the right, but is not required, to be represented at the hearing by legal counsel who is a member in good standing of the Bar of the State of Louisiana.

C. The Committee or Referee will control the hearing in a manner best suited to ascertain the facts and safeguard the rights of the Parties to the Hearing.

D. The basis of the Initial Determination which is the subject of review will be presented first. The Covered Person, or Representative, will then be given the opportunity to demonstrate why this Determination should be held in error. The Program will then be given the opportunity to present the case in support of the Initial Determination.

E. Testimony will be taken only on oath, affirmation, or penalty of perjury. The Committee or any subordinate presiding officer will have the power to administer oaths and affirmations as well as other powers granted in this section and by law.

F. Each Party to the Hearing will have the right to call and examine all other Parties to the Hearing and their witnesses; to introduce exhibits; to question opposing witnesses and Parties to the Hearing on any matter relevant to the issue, even though the matter was not covered in the direct examination; to impeach any witness regardless of which Party to the Hearing first called the witness to testify; and to rebut any evidence presented.

G. Any relevant evidence will be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any statutory or other rule of law which might make improper the admission of the evidence over objection in a civil or criminal proceeding.

H. The Committee or Referee may question any Party to the Hearing or witness and may admit any relevant and material evidence.

I. The Covered Person has the burden of proving whatever facts are necessary to support the opposition to the Initial Determination.

J. If, after the hearing has begun, the Committee or Referee determines that additional evidence is necessary for the proper determination of the case, (a) the hearing may be continued to a later date and any Party to the Hearing ordered to produce additional evidence; or (b) the hearing may be closed, and the record held open in order to permit the introduction of additional documentary evidence. The Committee or Referee may order a further hearing if the nature of the additional evidence or the refutation thereof makes further hearing desirable.

K. At the request of any Party to the Hearing made prior to the close of the hearing, the Committee or Referee will grant oral argument. If written argument is requested, it may be granted and, if granted, the Parties to the Hearing will be advised as to the time and manner within which the argument is to be filed. The Committee or Referee may require any Party to the Hearing to submit written memorandum pertaining to any or all issues raised in the hearing.

L. A verbatim taped record will be made of the hearing and made a permanent part of the Committee's records. A typed transcript of the hearing will be made only when determined to be necessary at the hearing, or subsequently, if legal action results, at the cost of the party requesting the transcript.

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 25:1838 (October 1999).

§511. Subpoena of Witness; Production of Documents

A. The Committee, each member thereof, or the Referee to whom an Appeal has been referred will have the power to order the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

B. The Committee or Referee may order the production or inspection of any records or relevant portions of records in the possession of the Program when necessary to decide the issues in any Appeal or to assist a Covered Person in preparing for the proceeding. A request by a Covered Person, or Representative for an order to produce or inspect records of the Program must be in writing and must clearly

state the information desired, the records desired to be produced or inspected, and the reason therefor.

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the CEO no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas must contain the names of the witnesses and a statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoena deposits with the CEO a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the CEO no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence must contain a description of the items to be produced in sufficient detail for identification and must contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

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 25:1839 (October 1999).

§513. Appeals Decisions

A. Appeals Heard by the Committee. At the conclusion of the hearing, the Committee will take the matter under submission and, as soon as is reasonably possible thereafter, render its decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed by certified mail to the Covered Person and any Representative thereof.

B. Appeals Heard by Referee. At the conclusion of the hearing, the Referee will take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the Committee for review.

C. The recommended decision will be reviewed by the CEO, who may concur without comment or who may prepare a written opinion of the recommendation.

1. The Committee may adopt or reject the recommended decision. In the case of adoption, the Referee's decision becomes the decision of the Committee. In the case of rejection, the Committee will render its decision which will include a statement of reasons for disagreement with the Referee's decision. The decision of the Committee will be final. A copy will be mailed by certified mail to the Covered Person and any Representative thereof.

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 25:1839 (October 1999).

§515. Rehearing

A. A Covered Person aggrieved by an appeal decision of the Committee may request a rehearing only on the grounds that:

1. the decision is clearly contrary to the law and the evidence;
2. the Covered Person has discovered, since the hearing, evidence important to the issues which could not have, with due diligence, been obtained before or during the hearing;
3. there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or
4. there is other good ground for further consideration of the issues and the evidence.

B. The request for rehearing must (a) be in writing; (b) be signed by the Covered Person or Representative; (c) set forth the grounds which justify rehearing; and (d) contain a clear and concise statement of the reasons in support thereof.

C. The request for rehearing must be filed with the CEO on or before 30 calendar days after the mailing of the appeal decision of the Committee. The request will be deemed filed on the date it is received in the office of the CEO. The CEO will cause the date of filing to be noted on each request for rehearing.

D. When a rehearing is denied by the Committee, the Appealing Party and any Representative will be notified by certified mail.

E. When a rehearing is granted by the Committee, an order will be issued setting forth the grounds. The CEO will cause a copy of the order to be sent, along with notice of the time and place fixed for the rehearing, to the Appealing Party and any Representative by certified mail.

F. On rehearing, the matter will be heard by the Committee and will be confined to those grounds upon which the rehearing was granted.

G. When an Appeal has been decided on rehearing, another request for rehearing will not be considered.

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).

§517. Judicial Review

A Covered Person aggrieved by a final decision of the Committee is entitled to judicial review in accordance with L.R.S. 49:964.

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).

Chapter 6. Definitions

§601. Definitions

Appeal—means a request for and a formal review by a Plan Member of a medical claim for benefits or an eligibility determination.

Benefit Payment—means payment of eligible expenses incurred by a Covered Person during a Calendar Year at the rate shown under Percentage Payable in the Schedule of Benefits.

Board of Trustees—means the entity created and empowered to administer the State Employees Group Benefits Program.

Calendar Year—means that period commencing at 12:01 a.m., January 1, standard time, at the address of the Employee, or the date the Covered Person first becomes covered under the Plan and continuing until 12:01 a.m., standard time, at the address of the Employee on the next following January 1. Each successive Calendar Year will be the period from 12:01 a.m., January 1, standard time, at the address of the Employee to 12:01 a.m., the next following January 1.

CEO—means the Chief Executive Officer of the Program.

Children—means:

1. any natural or legally adopted Children of the Employee and/or the Employee's legal spouse dependent upon the Employee for support;

2. any Children in the process of being adopted by the employee through an agency adoption who are living in the household of the Employee and who are or will be included as a Dependent of the Employee's federal income tax return for the current or next tax year (if filing is required);

3. other Children for whom the Employee has legal custody, who live in the household of the Employee, and who are or will be included as a Dependent on the Employee's federal income tax return for the current or next tax year (if filing is required);

4. grandchildren for whom the Employee does not have legal custody, who are dependent upon the Employee for support, and one of whose parents is a covered Dependent. If the Employee seeking to cover a grandchild is a paternal grandparent, the Program will require that the biological father, i.e. the covered son of the Plan Member, execute an acknowledgement of paternity. If dependent parent becomes ineligible, the grandchild becomes ineligible for coverage, unless the Employee has legal custody of the grandchild.

COBRA—means federal continuation of coverage laws originally enacted in the Consolidated Omnibus Budget Reconciliation Act of 1985 with amendments.

Committee—means the Grievance Committee of the Board.

Covered Person—means an active or retired Employee, or his eligible Dependent, or any other individual eligible for coverage for whom the necessary application forms have been completed and for whom the required contribution is being made.

Custodial Care—means care designed essentially to assist an individual to meet his activities of daily living (i.e. services which constitute personal care such as help in walking, getting in and out of bed, assisting in bathing, dressing, feeding, using the toilet and care which does not require admission to the Hospital or other institution for the Treatment of a disease, illness, accident or injury, or for the performance of surgery; or care primarily to provide Room and Board with or without routine nursing care, training in personal hygiene and other forms of self-care) and supervisory care by a doctor for a person who is mentally or physically incapacitated and who is not under specific medical, surgical or psychiatric Treatment to reduce the

incapacity to the extent necessary to enable the patient to live outside an institution providing medical care, or when, despite Treatment, there is not reasonable likelihood that the incapacity will be so reduced.

Date Acquired—means the date a Dependent of a covered Employee is acquired in the following instance and on the following dates only:

1. Legal Spouse—date of marriage;
2. Children—
 - a. natural children—the date of birth;
 - b. children in the process of being adopted:
 - i. agency adoption—the date the adoption contract was executed by the Employee and the adoption agency;
 - ii. private adoption—the date of the execution of the Act of Voluntary Surrender in favor of the Employee, if the Program is furnished with certification by the appropriate clerk of court setting forth the date of execution of the Act and the date that said Act became irrevocable, or the date of the first court order granting legal custody, whichever occurs first;
 - c. Other Children living in the household of the covered Employee who are or will be included as a Dependent on the Employee's federal income tax return – the date of the court order granting legal custody.
 - d. Grandchildren for whom the Employee does not have legal custody, who are dependent upon the Employee for support, and one of whose parents is a covered Dependent as defined:
 - i. the date of birth, if all the requirements are met at the time of birth; or
 - ii. the date on which the coverage becomes effective for the covered Dependent, if all the requirements are not met at the time of birth.

Deductible—means the amount of covered charges for which no benefits will be paid. Before benefits can be paid in a Calendar Year, a Covered Person must meet the deductible shown in the Schedule of Benefits.

Dependent—means any of the following persons who are enrolled for coverage as Dependents, if they are not also covered as an Employee:

1. the covered Employee's legal spouse;
2. any (never married) Children from date of birth (must be added to coverage within 30 days from date acquired by completing appropriate enrollment documents) up to 21 years of age, dependent upon the Employee for support;
3. any unmarried (never married) children 21 years of age, but under 24 years of age, who are enrolled and attending classes as full-time students and who depend upon the Employee for support. The term full-time student means students who are enrolled at an accredited college or university, or at a vocational, technical, or vocational-technical or trade school or institute, or secondary school, for the number of hours or courses which is considered to be full-time attendance by the institution the student is attending;
 - a. It is the responsibility of the Plan Member to furnish proof acceptable to the Program documenting the full-time student status of a dependent child for each semester.

4. any dependent parent of an Employee or of an Employee's legal spouse, if living in the same household, was enrolled prior to July 1, 1984, and who is, or will be, claimed as a Dependent on the Employee's federal income tax return in the current tax year. The Program will require an affidavit stating the covered Employee intends to include the parent as a Dependent on his federal income tax return for the current tax year. Continuation of coverage will be contingent upon the payment of a separate premium for this coverage.

Dependent Coverage—means benefits with respect to the Employee's Dependents only.

Disability—means that the Covered Person, if an Employee, is prevented, solely because of a disease, illness, accident or injury from engaging in his regular or customary occupation and is performing no work of any kind for compensation or profit; or, if a Dependent, is prevented solely because of a disease, illness, accident or injury, from engaging in substantially all the normal activities of a person of like age in good health.

Durable Medical Equipment—means equipment which:

1. can withstand repeated use;
2. is primarily and customarily used to serve a medical purpose;
3. generally is not useful to a person in the absence of an illness or injury; and
4. is appropriate for use in the home. Durable Medical Equipment includes, but is not limited to, such items as wheelchairs, hospital beds, respirators, braces (non-dental) and other items that the Program may determine to be durable medical equipment.

Emergency Room Services—means Hospital services eligible for reimbursement, provided at a Hospital Emergency Room and billed by a Hospital, and provided on an expeditious basis for Treatment of unforeseen medical conditions which, if not immediately diagnosed and treated, could reasonably result in physical impairment or loss of life.

Employee—means a full-time Employee as defined by a Participant Employer in accordance with state law. No person appointed on a temporary appointment will be considered an Employee.

Employee Coverage—means benefits with respect to the Employee only.

Family Unit Limit—means the dollar amount shown in the Schedule of Benefits has been incurred by three members of a family unit toward their Calendar Year deductibles. The deductibles of all additional members of that family unit will be considered satisfied for that year.

Fee Schedule—means the schedule of maximum allowable charges for professional or hospital services adopted and promulgated by the Board of Trustees.

Future Medical Recovery—means recovery from another plan of expenses contemplated to be necessary to complete medical Treatment of the Covered Person.

Group Health Plan—means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

Health Insurance Coverage—means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer. However, benefits described pursuant to the Health Insurance Portability and Accountability Act are not treated as benefits consisting of medical care.

Health Maintenance Organization (HMO)—means any legal entity, which has received a certificate of authority from the Louisiana Commissioner of Insurance to operate as a health maintenance organization in Louisiana.

HIPAA—means the Health Insurance Portability and Accountability Act of 1996 (USA Public Law 104-191).

Hospital—means an institution, which meets all the following requirements:

1. is currently a licensed as a Hospital in the state in which the services are rendered and is not primarily an institution for rest, the aged, the Treatment of pulmonary tuberculosis, a nursing home, extended care facility or remedial training institution, or facilities primarily for the Treatment of conduct and behavior disorders.

Incurred Date—means the date upon which a particular service or supply is rendered or obtained. When a single charge is made for a series of services, each service will bear a pro rated share of the charge.

Inpatient Confinement—means a Hospital stay, which is equal to or exceeds 24 hours.

Lifetime Maximum Benefit—means the total amount of benefits that will be paid under the Plan for all eligible expenses incurred by a Covered Person.

Medically Necessary—means a service or Treatment which, in the judgement of the Program:

1. is appropriate and consistent with the diagnosis and which, in accordance with accepted medical standards, could not have been omitted without adversely affecting the patient's condition or the quality of medical care rendered; and

2. is not primarily Custodial Care.

Medicare—means the health insurance available through Medicare laws enacted by the Congress of the United States.

Network Pharmacy—means a pharmacy, which participates in a network established and maintained by a prescription benefits management firm with which the Program has contracted to provide and administer outpatient prescription drug benefits.

Occupational Therapy—means the application of any activity in which one engages for the purposes of evaluation, interpretation, Treatment planning, and Treatment of problems interfering with functional performance in persons impaired by physical illness or injury in order to significantly improve functioning.

Outpatient Surgical Facility—means an ambulatory surgical facility licensed by the state in which the services are rendered.

Pain Rehabilitation Control and/or Therapy—means any program designed to develop the individual's ability to control or tolerate chronic pain.

Participant Employer—means a state entity, school board or a state political subdivision authorized by law to participate in the Program.

Physical Therapy—means the evaluation of physical status as related to functional abilities and Treatment procedures as indicated by that evaluation.

Physician—

1. Physician means the following persons, licensed to practice their respective professional skills by reason of statutory authority:

- a. doctor of medicine (M.D.);
- b. doctor of dental surgery (D.D.S.);
- c. doctor of dental medicine (D.M.D.);
- d. doctor of osteopathy (D.O.);
- e. doctor of podiatric medicine (D.P.M.);
- f. doctor of chiropractic (D.C.);
- g. doctor of optometry (O.D.);
- h. psychologist meeting the requirements of the

National Register of Health Service Providers in Psychology;

- i. board certified social workers who are a members of an approved clinical social work registry or employed by the United States, the State of Louisiana, or a Louisiana parish or municipality, if performing professional services as a part of the duties for which he is employed;

- j. mental health counselors who are licensed by the state in which they practice;

- k. substance abuse counselors who are licensed by the state in which they practice.

2. The term Physician does not include social workers, who are not board certified; interns; residents; or fellows enrolled in a residency training program regardless of any other title by which he is designated or his position on the medical staff of a Hospital. A senior resident, for example, who is referred to as an assistant attending surgeon or an associate physician, is considered a resident since the senior year of the residency is essential to completion of the training program. Charges made by a Physician, who is on the faculty of a state medical school, or on the staff of a state Hospital, will be considered a covered expense if the charges are made in connection with the Treatment of a disease, illness, accident or injury covered under this Plan, and if the Physician would have charged a fee for the services in the absence of this provision.

3. It is the specific intent and purpose of the Program to exclude reimbursement to the Covered Person for services rendered by social workers who are not board certified; and intern, resident, or fellow enrolled in a residency training program regardless of whether the intern, resident, or fellow was under supervision of a Physician or regardless of the circumstances under which services were rendered.

4. The term Physician does not include a practicing medical doctor in the capacity of supervising interns, residents, senior residents, or fellows enrolled in a training program, who does not personally perform a surgical procedure or provide medical Treatment to the Covered Person.

Plan—means coverage under this contract including PPO benefits, prescription drug benefits, mental health and substance abuse benefits and comprehensive medical benefits.

Plan Member—means a Covered Person other than a Dependent.

PPO—means a Preferred Provider Organization. A PPO is a medical provider such as a Hospital, doctor or clinic who entered into a contractual agreement with the Program to provide medical services to Covered Persons at a reduced or discounted price.

Program—means the State Employees Group Benefits Program as administered by the Board of Trustees.

Recovery—means monies paid to the Covered Person by way of judgment, settlement, or otherwise to compensate for all losses caused by the injuries or sickness whether or not said losses reflect medical or dental charges covered by the Program.

Referee—means a hearing officer employed by the Board, to whom an Appeal may be referred for hearing.

Rehabilitation and Rehabilitation Therapy—means care concerned with the management of patients with impairments of function due to disease, illness, accident or injury.

Reimbursement—means repayment to the Program for medical or dental benefits that it has paid toward care and Treatment of the injury or Sickness.

Rest Cure—means care provided in a sanitarium, nursing home or other facility and designed to provide Custodial Care and provide for the mental and physical well being of an individual.

Retiree—means an individual who was a covered Employee, immediately prior to the date of retirement and who, upon retirement;

1. immediately received retirement benefits from an approved state or governmental agency defined benefit plan; or,

2. was not eligible for participation in such a plan or had legally opted to not participate in such a plan; and

a. began employment prior to September 15, 1979, has 10 years of continuous state service and has reached the age of 65; or

b. began employment after September 16, 1979, has 10 years of continuous state service and has reached the age of 70; or

c. was employed after July 8, 1992, has 10 years of continuous state service, has a credit for a minimum of 40 quarters in the Social Security system at the time of employment and has reached the age of 65; or

d. maintained continuous coverage with the Program as an eligible Dependent until he/she became eligible as a former state employee to receive a retirement benefit from an approved state governmental agency defined benefit plan; or

3. immediately received retirement benefits from a state-approved or state governmental agency-approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system responsible for administration of the defined contribution plan is responsible for certification of eligibility to the State Employees Group Benefits Program.

4. Retiree also means an individual who was a covered Employee who continued the coverage through the provisions of COBRA immediately prior to the date of

retirement and who, upon retirement, qualified for any of items 1, 2, or 3, above.

Room and Board—means all Hospital expenses necessary to maintain and sustain a Covered Person during a confinement, including but not limited to, facility charges for the maintenance of the Covered Person's Hospital room, dietary and food services, nursing services performed by nurses employed by or under contract with the Hospital and Housekeeping services.

Stop Loss Provision—represents the co-insurance amount for which the Plan Member is responsible. This amount does not include any deductibles or ineligible expenses. The Plan Member's Stop Loss will be the difference between the Program's payment and the eligible charge.

Subrogation—means the Program's right to pursue the Covered Person's claims for medical or dental charges against a liability insurer, a responsible party or the Covered Person.

Temporary Appointment—means an appointment to any position for a period of 120 consecutive calendar days or less.

Treatment—includes consultations, examinations, diagnoses, and as well as medical services rendered in the care of a Covered Person.

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 in that physician's office, and billed by that physician with wellness procedure and diagnosis codes. All other health services coded with wellness procedures and diagnosis codes are excluded.

Well-Baby Care—means routine care to a well newborn infant from the date of birth until age 1.

Well-Child Care—means routine physical examinations, active immunizations, check-ups and office visits to a Physician, and billed by that physician, 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).

Chapter 7. Schedule of Benefits—PPO
§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person	\$ 1,000,000
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person	\$ 250,000

1. Deductibles:

Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO Hospitals)	\$ 50
Emergency room charges for each visit unless the Covered Person is hospitalized immediately following emergency room Treatment (prior to and in addition to Calendar Year deductible)	\$ 100
Professional and other eligible expenses Per person, per	\$ 300

Calendar Year Family Unit maximum (3 individual deductibles) \$ 900

2. Percentage Payable after Satisfaction of Applicable Deductibles

Eligible expenses incurred at a PPO	90% of negotiated rate
Eligible expenses incurred at a non-PPO when one is available in the PPO Region	50%
Eligible expenses incurred at a non-PPO when not available at a PPO or out of state	80%
Eligible expenses incurred when Medicare or other group health plan is primary, and after Medicare reduction	80%
Eligible expenses in excess of \$5,000 per Calendar Year per person	100%

3. Eligible Hospital Expenses ¹

Hospital Room and Board not to exceed the average semi-private room rate	See % payable after deductible - above
Intensive Care Unit not to exceed 2 1/2 times the Hospital's average semi-private room rate	See % payable after deductible - above
Miscellaneous Expenses	See % payable after deductible - above

4. Prescription Drugs

(No deductible)	50% non Network in state
\$8 copayment for generic drugs and \$22 copayment for brand name drugs purchased from a network pharmacy	80% non Network out of state

B. Dental Surgery Benefit For Specified Procedure

Percentage payable (Deductible waived)	100%
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C. Well Care

1. Well Baby

Birth to age 1 - all office visits for scheduled immunizations and screenings	See % payable after deductible - Pg. 4
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2. Well Child

Age 1-2 - 3 office visits per year for scheduled immunizations and screenings	See % payable after deductible - Pg. 4
Age 3-15 - 1 office visit per year for scheduled immunizations and screenings	See % payable after deductible - Pg. 4

3. Well Adult

(No deductible - limited to a maximum benefit of \$200)

Age 16-39 - 1 physical every 3 years	² See % payable below
Age 40-49 - 1 physical every 2 years	² See % payable below
Age 50 and over - 1 physical every year	² See % payable below

D. Durable Medical Equipment

Lifetime Maximum per Covered Person	\$ 50,000
Percentage Payable	See % payable after deductible - Pg. 4

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).

§703. Mental Health And Substance Abuse (Requires prior approval of services)

A. Deductibles

Annual per person (Separate from Comprehensive Medical Benefits deductible)	\$ 200
Inpatient (Maximum 5 days; \$250 per stay)	\$ 50 per day

B. Benefits

80% of the first \$5,000 of eligible expenses
 100 % of eligible expenses over \$5,000 until the Lifetime Maximum for all Plan benefits is reached
 Up to a maximum of 45 inpatient days per person, per calendar year
 Up to a maximum of 52 outpatient visits per person, per Calendar Year, inclusive of the intensive outpatient program

Note: Two days of partial hospitalization or two days of residential Treatment center hospitalization may be traded for each inpatient day of Treatment that is available under the 45-day Calendar Year maximum for inpatient Treatment. A residential Treatment center is a 24-hour mental health or substance abuse, non-acute care Treatment setting for active Treatment interventions directed at the amelioration of the specific impairments that led to admission. Partial hospitalization is a level of care where the patient remains in the hospital less than 24 hours.

Expenses incurred for emergency services will only be reimbursed if, after review, the services are determined to be a life-threatening psychiatric emergency resulting in an authorized mental health or substance abuse admission within 24 hours to an inpatient, partial, or intensive outpatient level care. Non-emergent psychiatric or substance abuse problems treated in the emergency room will not be eligible for reimbursement.

¹Subject to Pre-Admission Certification (PAC) Guidelines

²Non-PPO/EPO in-state benefit limited to 50 percent of maximum; Non-PPO/EPO out-of-state benefit limited to 80percent of maximum.

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 25:1844 (October 1999).

A. Kip Wall
 Interim Chief Executive Officer

9910#011

RULE

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

Intrathecal Baclofen Therapy (IBT)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in

accordance with the Administrative Procedure Act R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopts the following clinical criteria governing coverage for the surgical implantation of a programmable infusion pump for the delivery of intrathecal baclofen therapy (IBT) to Candidates age four years and older who require IBT therapy for the treatment of severe spasticity of the spinal cord or of cerebral origin.

I. Candidate Selection Criteria. Consideration shall be given for Medicaid reimbursement for implantation of an IBT infusion pump if the treatment is considered medically necessary, the candidate is four years of age or older with a body mass sufficient to support the implanted system, and any one or more of the following criteria is met:

A. Inclusive Criteria for Candidates with Spasticity of Cerebral Origin

1. there is severe spasticity of cerebral origin with no more than mild athetosis;
2. the injury is older than one year;
3. there has been a drop in Ashworth scale of 1 or more;
4. spasticity of cerebral origin is resistant to conservative management;
5. the candidate has a positive response to test dose of intrathecal baclofen.

B. Inclusive Criteria for Candidates with Spasticity of Spinal Cord Origin

1. spasticity of spinal cord origin that is resistant to oral antispasmodics or side effects unacceptable in effective doses;
2. there has been a drop in Ashworth scale of 2 or more; or
3. the candidate has a positive response to test dose of intrathecal baclofen.

C. Caution should be exercised when considering IBT infusion pump implantation for candidates who: have a history of autonomic dysreflexia; suffer from psychotic disorders, have other implanted devices; or utilize spasticity to increase function such as in posture balance and locomotion.

D. Exclusive Criteria. Consideration for an implantation of an IBT infusion pump shall not be made if the candidate:

1. fails to meet any of the inclusion criteria;
2. is pregnant, or refuses or fails to use adequate methods of birth control;
3. has a severely impaired renal or hepatic function;
4. has a traumatic brain injury of less than one year pre-existent to the date of the screening dose;
5. has a history of hypersensitivity to oral baclofen;
6. has a systemic or localized infection which could infect the implanted pump; or
7. does not respond positively to a 50, 75 or 100 mcg intrathecal bolus of Lioresal during the screening trial procedure.

Note: Reimbursement is available for the cost of the bolus injections given even if the candidate fails the screening trial procedure.

II. Diagnoses Covered. The following diagnoses are considered appropriate for IBT treatment and infusion pump implantation:

- A. meningitis;
- B. encephalitis;
- C. dystonia;
- D. multiple sclerosis;
- E. spastic hemiplegia;
- F. infantile cerebral palsy;
- G. other specified paralytic syndromes;
- H. acute, but ill-defined, cerebrovascular disease;
- I. closed fracture of base of skull;
- J. open fracture of base of skull;
- K. closed skull fracture;
- L. fracture of vertebral column w/spinal cord injury;
- M. intracranial injury of other & unspecified nature; and
- N. spinal cord injury w/o evidence of spinal bone injury.

III. Prior Authorization. All implantations must be prior authorized. The request to initiate chronic infusion of IBT shall be made by the multidisciplinary team which shall consist of the following professionals: neurosurgeon or an orthopedic surgeon; physiatrist and or neurologist; the attending physician; a nurse; a social worker; and allied professionals (physical therapist, occupational therapist, etc). The multidisciplinary team shall evaluate the candidate after the screening trial procedure has been completed but prior to pump implantation. These professionals shall have expertise in the evaluation, management and treatment of spasticity of cerebral and spinal cord origin and shall have undergone training in infusion therapy and pump implantation by Medtronic or an equally recognized product supplier with expertise in intrathecal baclofen. The team's recommendation and the results of all pre-operative tests (medical and physical, neurological, functional, and psychosocial assessments; Ashworth scores for pre and post administration of IBT test doses; and any other pertinent documentation, evaluation, or testing) shall be submitted simultaneously to the Prior Authorization Unit for review.

David W. Hood
Secretary

9910#082

RULE

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

Licensing Standards for Rural Health Clinics
(LAC 48:I.Chapter 75)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule governing the licensing and regulation of Rural Health Clinics as authorized by R.S. 40:2197 and in accordance with 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 adopts the

following regulations which will govern the licensing of rural health clinics.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 75. Licensing of Rural Health Clinics

Subchapter A. General Provisions

§7501. Definitions and Acronyms

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

CLIA—Clinical Laboratories Improvement Act—Requires a waiver or certificate to assure quality of laboratory testing.

DHH—Louisiana Department of Health and Hospitals

Division of Research and Development—Office of Primary and Rural Health Care Unit in DHH.

HCFA—Health Care Financing Administration—federal regulatory agency for Medicaid, Medicare, and Child Health Insurance programs.

HSS—Health Standards Section in the Bureau of Health Services Financing of DHH.

Midlevel Practitioner—a certified nurse midwife, a certified nurse practitioner, or physician assistant.

OMB—Office of Management and Budget of the Executive Office of the President of the United States.

OPH—Office of Public Health in the Department of Health and Hospitals.

OSFM—Louisiana Office of State Fire Marshal.

Primary Care—services normally provided in a physician's office to diagnose, treat, or prevent illness or injury; and includes professional services provided by licensed professionals such as assessment, examination, approved laboratory services, and treatment services listed in §7519.

Professional Services—documented, face-to-face visit on the RHC premises for the purpose of providing professional level skilled services. Professional services include physical assessment, any of the waived clinical laboratory tests and treatment/education for the illness diagnosed when provided by a qualified professional as defined below.

Qualified Professionals—one of the following professionals qualified to provide services:

a. *Advanced Practice Registered Nurse*—APRN;

b. *Licensed Clinical Psychologist*—LP

c. *Licensed Physician's Assistant*—PA;

d. *Licensed Social Worker*—Board Certified Social Worker (BCSW);

e. *Physician*—Doctor of Medicine;

Rural Area—a non-metropolitan statistical area, as defined by the federal Office of Management and Budget and the Census Bureau/Population and Housing Unit Counts, which has a shortage of physicians and other health care providers as determined by the Department of Health and Hospitals.

Rural Health Clinic (RHC)—an outpatient primary care clinic seeking or possessing certification by the Health Care Financing Administration (HCFA) as a rural health clinic, which provides diagnosis and treatment to the public by a qualified mid-level practitioner and a licensed physician.

Standards of Practice—standards developed and issued by Louisiana professional practices boards that govern health care and allied health professions. Duties and delegation of duties by licensed/certified personnel shall be performed within the bounds of ethical and legal standards of practice. All patient care services must be provided in accordance with the orders of licensed and certified practitioners. Standards of practice pertinent to rural health clinic practice are listed in §7523 of this document.

Waiver or Variance—written permission granted by the HSS or DHH Secretary or his designee to a facility to operate out of compliance with a specific portion of the standards when it is determined that the health and safety of the patients will not be jeopardized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999).

§7503. Licensing

A. General Provisions. Rural Health Clinics shall:

1. operate in accordance with rules, regulations and standards contained in this document;

2. meet and maintain compliance with all current HCFA conditions of participation and DHH Minimum Licensing Standards;

3. maintain a sufficient number of qualified professional personnel to provide services appropriate to level of care and the number of patients served; and

4. maintain at least \$500,000 of general liability insurance and \$500,000 of professional liability insurance and provide to DHH proof of insurance upon request.

B. Initial Licensing

1. Policies

a. All applications shall be original documents submitted to HSS in accordance with current procedures.

b. Incomplete applications will be closed and discarded 90 days from date of original submission of data. An application is not considered pending until the day a complete application has been received and approved.

c. Any misrepresentation or falsification of documentation will nullify the application and automatically restrict the applicant from participation in any programs licensed by HSS for at least one year.

d. Fees or payments for charges submitted to HSS shall be in the form of a company check, certified check or money order made payable to DHH and are non-refundable and non-transferable.

2. Procedures

a. Obtain a packet from HSS (packet is informational and current for approximately 90 days from date of purchase).

b. Complete an application form. Submit an original and one copy.

c. Submit the appropriate licensing fee.

d. Submit the following documentation:

i. all documentation pertinent to the proposed location from the Division of Research and Development, Office of Primary and Rural Health Care Unit and dated within 30 days prior to application;

ii. written approval of site/building plans by DHH planning review section;

- iii. required jurisdictional approvals—local, state, and federal such as zoning, Fire Marshal, and sanitation;
- iv. letter of intent which shall include:
 - (a). proposed operational hours;
 - (b). proposed target population including clinic location, service area, and pertinent demographics;
 - (c). copy of site plan and sketch of the floor plan of the building;
 - (d). proposed date to begin operation;
 - (e). services to be provided;
 - (f). relationships and/or agreements with other entities (hospitals, emergency transportation, etc.);
 - (g). other licenses, contracts with state, such as Community Care, Kid Med, managed care, etc.;
- v. appropriate CLIA approval prior to any initial survey.

3. Survey. Prior to issuing an initial license, DHH/HSS will make a comprehensive on-site assessment to determine the capability of the facility to provide primary care services. A facility shall be operational prior to survey and must have seen at least five patients at the time of survey.

C. Types of License

1. Full, Unrestricted. This license type indicates that the facility is in full compliance with licensing standards, and is valid for one year unless revoked, suspended, or denied. The license is non-transferable.

2. Provisional. This license type is issued for a specific length of time in order to designate that the facility is not in full compliance with licensing standards. A provisional license may be issued for the following reasons:

- a. any repeat violation;
- b. serious violation during any survey or on-site visit;
- c. isolated incidence of non-compliance that has the potential for serious harm if not corrected immediately; or
- d. determination that the facility has potential for serious violation or potential harm due to personnel turnovers, ownership changes, management changes, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999).

§7505. Denial, Revocation, or Non-Renewal of License

A. In accordance with Subsection C. Adverse Actions, DHH reserves the right to suspend, deny (initial or renewal) or revoke any license at the discretion of the Secretary or his designee. Facilities, facility owners and staff shall be reported to the proper authorities such as state Licensing boards or state or federal enforcement agencies, when there is suspicion of illegal or unethical behavior.

B. Any involuntary termination, failure to renew, or voluntary termination of the facility's license to avoid pending adverse action will automatically prevent the facility and the facility owners, professional staff, administrative staff, family members and others as appropriate from applying for an RHC license, or from owning or working with a rural health clinic, for at least one year. Persons who own at least five percent or more of the facility are considered owners.

C. Adverse Actions. A license or renewal may be revoked, suspended, or denied for any of the following reasons:

- 1. cruelty or indifference to the welfare of the patients;
- 2. misappropriation or conversion of the property of the patients;
- 3. violation of any provision of this section or of the minimum standards, rules, and regulations or orders of the agency promulgated hereunder, including but not limited to, the following:
 - a. failure to employ and utilize a sufficient number of appropriately qualified professionals;
 - b. repeated failure to maintain adherence to any standard;
 - c. serious violation of RHC standards or current professional standards of practice by licensed/certified personnel;
 - d. failure to timely submit a corrective action plan for identified violations;
 - e. reasonable cause to suspect that patient health/safety is jeopardized;
 - f. reliable evidence that facility has:
 - i. falsified information on legal documents;
 - ii. failed to provide optimum therapy in accordance with current standards of practice;
 - iii. bribed, solicited or harassed any person to use the services of any particular facility; and
 - iv. failed to assure that only qualified professionals provided care and services;
 - g. failure to submit required fees in a timely manner;
 - h. failure to cooperate with survey/investigation by DHH/authorized agencies;
- 4. any owner of five percent or more of the agency and any administrative officer convicted of a felony or pleads *nolo contendere* to a felony charge. If the applicant is an agency, the head of that agency must be free of such conviction. If a subordinate employee is convicted of a felony, the matter must be handled administratively to the satisfaction of DHH/HSS;

5. documented information of past or present conduct or practices of facility which are detrimental to the welfare of the patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1847 (October 1999).

§7507. Changes/Reporting

A. Data Submission. Information requests will be sent to the clinic by various offices of DHH or its contractors. All requests must be answered promptly and must be current at time of renewal or license will not be issued.

- 1. Each facility shall notify DHH/HSS if facility contracts to provide services under another program such as Community Care, Kid Med, managed care, etc.
- 2. Failure to return requested information shall result in adverse action including, but not limited to, sanctions, and/or revocation of license.

B. Notifications. The rural health clinic must notify HSS at least fifteen days prior to any operational changes. A license is non-transferable; therefore, invalid for any other

location or owner except as originally issued. Any break in the operation of the facility will invalidate the license.

1. Change of Ownership. The following information must be submitted:

- a. certified copy of bill of sale;
- b. application reflecting changes; and
- c. letter of intent, narrative explanation of changes.

2. Change of Address(Location). Submit the following information:

- a. same zip code:
 - i. letter for approval by DHH/HSS;
 - ii. Fire Marshal's approval;
 - iii. fee to re-issue license; and
 - iv. copy of current license;
- b. different zip code-site approval letter in addition to above requirements.

3. Change in Services. The following information must be submitted:

- a. letter to file listing current services; additional/deleted services;
- b. copy of license;
- c. professional and management staffing changes; and
- d. use of contract mid-level practitioner instead of the employee for any period of time greater than 30 days or more than twice during the calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1847 (October 1999).

§7509. Annual Licensing Renewal

A. DHH Responsibilities. It is the responsibility of the Department of Health and Hospitals (DHH) to:

1. send a letter of notification of license renewal to the facility approximately forty-five (45) days prior to expiration of license;
2. survey annually to assure facility provides quality care, and adheres to licensing requirements;
3. assure that all legal requirements are met (e.g. cost reports, fire marshal reports, etc.); and
4. make a determination and take appropriate action regarding licensing.

B. RHC Responsibilities. It is the responsibility of the Rural Health Clinic to:

1. notify DHH if the renewal letter is not received in a timely manner;
2. complete the application and obtain and submit other required data; and
3. submit the appropriate fee for license.

C. Survey. DHH shall make an annual on-site survey. If DHH does not make an on-site survey prior to renewal of the license, then the facility shall be issued an extension of a valid license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1848 (October 1999).

§7511. Notice and Appeal Procedures

A. Notification. DHH will give 30 days notice prior to revocation, suspension or denial. However, DHH will not give notice of denial of renewal, suspension, or revocation if

DHH determines that the health, safety and welfare of the patients is in jeopardy.

B. Appeal Requests. Facilities may appeal denial of initial or renewal license, revocation, or suspension. Appeals resulting from adverse action are suspense unless DHH determines that the patient's health/safety is in jeopardy. However, when the patient's health and safety is in jeopardy, appeal rights may be exercised only after the facility is closed.

1. Informal Dispute Resolution. Request must be submitted in writing to DHH-HSS within 10 (ten) days of receipt of the notice of adverse action.

2. Administrative Appeal. Request must be submitted in writing to DHH—Office of the Secretary within 30 (thirty) days of receipt of the notice of adverse action. Requests for informal disputes resolution does not affect the time frame for requesting an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1848 (October 1999).

§7513. Complaint Procedures

A. All complaints and appeals from complaints will be investigated by the HSS in accordance with Louisiana R.S. 40:2009.13 et. seq.

B. Deficiencies or violations noted during complaint investigations may result in adverse actions, sanctions, terminations, and/or require immediate or routine corrective action as determined by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1848 (October 1999).

§7515. Voluntary Cessation of Business

A. Cessation of Business. If at any time the facility ceases to operate (regardless of length of time), the license shall be deemed invalid and shall be returned to DHH/HSS within five working days.

1. The agency owner is responsible for notifying DHH of the location of all records required to be maintained by the facility.

2. If the facility fails to surrender its license, the facility and its owners and administrative officers may be prohibited from operating for at least one year as a rural health clinic.

B. Expiration of License. Up to 30 days after the expiration date, failure to renew a license shall result in late fees. Thirty-one days or more after the expiration date, the facility shall be required to pay any fines or fees before applying for an initial license. Renewals will not be processed if received more than 31 days after the renewal date; the facility will be required to apply as an initial licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1848 (October 1999).

§7517. Personnel Qualifications/Responsibilities

A. Responsibility. The administration is responsible for assuring that:

1. all staff members are aware of their job responsibilities and are capable of performing assigned tasks;

2. a facility's staffing is adequate to produce the desired treatment outcomes and must reflect the volume of the patients, patient acuity, and number of services provided;

3. a facility develop and utilize a specific process to determine appropriate staffing levels.

B. Qualification. All personnel shall be licensed in accordance with their respective professions and be either board certified or board eligible as required by their respective certifying organizations. In addition, a facility shall be responsible for verifying and monitoring that professional certified personnel maintain continuous license/certification.

1. Physician Services. The physician shall provide on-site supervision of the mid-level practitioner(s) as required by the payment source and professional boards or at least every other week. All rural health clinic records and care provided by a mid-level practitioner(s) shall be assessed by a physician on a periodic basis or as the situation dictates to assure proper treatment and progress toward positive patient outcomes.

a. Medical Director. The medical director shall be credentialed to provide primary care. He/she is responsible for providing the medical direction for the clinic's activities, consultation for and supervision of the mid-level practitioner. The Medical Director, in conjunction with the mid-level practitioner, participates in the development and periodic review of the clinic's policies and services. He/She periodically reviews the patient records, issues medical orders and provides medical care services to the rural health clinic patients.

b. Other. Licensed physician credentialed to provide services provided as part of the rural health clinic services.

2. Mid-level Practitioner. The Mid-level Practitioner shall be appropriately licensed and credentialed as either an Advanced Practice Registered Nurse (Family Nurse Practitioner) or Physician's Assistant. The mid-level practitioner(s) shall be required to maintain ALS (ACLS and ATLS) certification to assure his/her proficiency in accepted standards of emergency care. If a facility has a written, current agreement with an advanced life support provider, who can provide care within ten minutes, then the mid-level practitioner and/or physician are exempt from this required certification.

a. Waivers will not be accepted for a mid-level practitioner.

b. Mid-level practitioners may be contracted to fulfill staffing requirements for 120 days each calendar year (January 1—December 31) with no accrual of days from year to year.

3. Support Staff. The facility should be adequately staffed to provide necessary support to the professionals. Additional staff may include pharmacists, administrators, managers, and clerical and medical records personnel.

C. Governing Body. All owners of a Rural Health Clinic shall be disclosed. Ownership of five percent or more constitutes ownership. In the case of a corporation, members of the board of directors must be identified and minutes of the board meetings shall be made available to DHH/HSS. The board shall meet at least once a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1848 (October 1999).

§7519. Services

A. Preventive Services

1. Health. Community-wide immunization efforts; wellness/fitness programs; educational programs; and health screening shall be provided.

2. Dental. Educational information and a current list of local dental providers shall be available.

B. Diagnostic Services. The clinic must have the capacity to evaluate and make initial diagnoses on-site in order to refer to the patient to the appropriate facility for treatment and/or more definitive diagnoses. RHCS shall meet the CLIA requirements for all laboratory tests. The clinic shall provide as part of professional services, any laboratory test that is essential to immediate diagnosis and treatment of illness and/or which can be performed by a method/procedure listed on the current list of waived tests by the CLIA requirements.

C. Treatment Services

1. Primary Care. The clinic shall provide primary care services, as defined in §7501 to all citizens of the community. Required primary care components include:

a. prevention of illness, education in wellness and preventive measures;

b. assessment and physical examination; and

c. diagnosis and treatment.

2. Emergency Care. The clinic shall maintain emergency equipment, medications and personnel to provide pre-hospital advanced cardiac life support and advanced trauma life support until emergency transportation can arrive and assume care of those in need of services.

a. Facilities within 10 (ten) minutes of Advanced Life Support (ALS) services may opt to have written agreement with a provider to provide services in lieu of certain equipment such as defibrillators and monitors, but must have equipment required for Basic Life Support.

b. All facilities shall have written agreement with emergency transportation provider to transport to the nearest hospital.

3. Contracted Treatment Services. Written agreements with full-service hospitals and credentialed practitioner(s) for specialty care must be current, clearly written, and reviewed annually. The facility retains responsibility for all medical care provided until the patient is referred to or admitted into another facility. Agreements must be signed and dated by all parties.

D. Miscellaneous Services

1. Family Services. The Rural Health Clinic shall maintain a current list of local/nearest support organizations and assist (whenever necessary) with accessing those entities. Examples of services that may be listed by the clinic shall include such organizations as the Public Health Unit, Office of Family Support, school clinics, hospices agencies, home health agencies, American Cancer Society, and services for substance abuse and mental illness.

2. Coordination of services for complex cases is the responsibility of the RHC professional staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1849 (October 1999).

§7521. Agency Operations

A. Municipals. A facility shall function as a community resource for all citizens of the service area and shall promote improvement of the health of the entire community by providing educational opportunities where feasible, resource lists for referrals, assistance with accessing other resources, wellness programs, and participation in community efforts to promote health and safety. A facility shall demonstrate the following.

1. Telemedicine Capacity/Resource. Computer access is recommended.

2. Emergency Preparedness. A facility shall:

- a. maintain a disaster plan appropriate to region and community;
- b. have facility protocols for medical and non-medical emergencies;
- c. maintain emergency supplies to provide basic emergency care in the case of a disaster in the community; and
- d. participate in the development of local community disaster plan.

B. Agreements. Written agreements shall be clearly worded, dated, reviewed and signed by all parties at least annually. All agreements shall be updated as needed to reflect any changes in relationships, provision of services, or other pertinent information.

C. Operation Hours. A facility shall provide:

1. primary care services at least 36 hours per week; three (3) hours a week must be outside of the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. Priority access and mobile units may be exempt from this requirement if a written variance is approved by DHH-HSS;
2. on-call qualified professional assistance for 24 hours per day, seven days per week;
3. appropriately qualified professional staff on duty during all hours of operation. Failure to do so will result in immediate adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1850 (October 1999).

§7523. Procedural Standards

A. The following processes are required for rural health clinics in Louisiana.

1. Access to Care. Rural Health Clinics shall:

- a. not be located within facilities also housing other health care providers in accordance with Louisiana R.S. 40:2007;
- b. be located away from metropolitan areas;
- c. provide services to all citizens of the community across all life cycles;
- d. provide service delivery to accommodate the majority of residents of the community; and
- e. provide professional coverage as required by §7517 and §7519.C.

2. Patient Assessment. Documentation of an assessment shall include:

- a. comprehensive scope of information with updates as indicated by changes in the patient's status;

b. physical examination and medical history, that identifies the patient's condition and care needs, and an estimate of his/her continuing care needs;

c. indicators that identify the need for further assessment/treatment such as the signs/symptoms of substance abuse, which requires a substance abuse assessment be included as part of the mental status evaluation; and

d. pertinent and comprehensive information relative to the reason for the encounter.

3. Care Planning. The plan of care shall be based upon the needs documented in the assessment and may be generic if original assessment and physical examination indicates the patient is generally healthy. The plan of care shall be modified to reflect any changes in the patient's condition.

4. Continuity of Care. The clinic staff shall:

a. provide orderly and efficient transition between levels of care without duplication or disruption of services;

b. provide post-hospitalization care based on the hospital's discharge assessment, possibly a Uniform Needs Assessment Instrument (UNAI), but includes at least a description of the patient's functional status, nursing and/or other care requirements, and the availability of family/care givers;

c. update comprehensive care plan as indicated and provide clinic services as indicated in the plan of care;

d. coordinate care and treatment interventions by all relevant disciplines;

e. evaluate progress and adjust actual care as needed to achieve progress.

5. Infection Control. A facility shall maintain a written and dated effective infection control program that protects the patients and staff from infections and communicable diseases.

6. Information Management. A facility shall maintain a record keeping system to communicate and measure clinic performance to assure that patient needs are documented and met. This system shall include accurate documentation of a patient visit for quality assessment and performance improvement purposes. The facility shall ensure the integrity, effectiveness, confidentiality, and security of the facility's data system.

7. Clinical Protocols. Written clinical protocols shall be established between mid-level practitioner(s) and the physician and the treatment(s) of choice shall be easy to identify.

8. The facility must have a grievance process and must indicate who the patient can contact to express a grievance. Records of all grievances, steps taken to investigate, and results of interventions must be available to surveyors upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1850 (October 1999).

§7525. Record Keeping

A. Medical Records

1. Identifying Information. The patient identification information such as name or ID number must appear on each page.

2. Entry Identification. Entries must be dated, signed, and credentials identified (MD, RN, etc.).

3. Contents. Each patient record must contain the following:

- a. personal/biographical data including full name, age, sex, address, employer, home and work telephone numbers, and marital status;
- b. next of kin or contact person;
- c. pertinent medical history/information.

4. Storage. All medical records shall be protected from theft, fire, and unauthorized use. Open shelving may be utilized only when the patients/visitors do not have access to the storage area. Closed records must be maintained by the facility or its designee in accordance with the following:

- a. a minimum of seven years from the date of last entry. After two years, records may be maintained electronically;
- b. until the age of majority, plus seven years in the case of children or adolescents.

B. Facility Records. A facility must maintain records of credentials and other evidence that facility is in compliance with current standards of practice and licensing standards as listed below:

1. personnel records;
2. advisory board meeting minutes;
3. policies/procedures with annual approvals;
4. governing board meeting minutes; and
5. proof of hours worked for professional employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1850 (October 1999).

§7529. Quality Assurance

A. Definitions

Scope of Care/Services—a facility shall delineate their scope of practice to include:

- a. the range of services provided, including conditions prevented, managed, or treated;
- b. treatments and/or procedures provided;
- c. patient populations served;
- d. hours when care or services are provided; and,
- e. types of professional disciplines and/or specialists providing services.

Evaluation—the review and assessment of the quality and appropriateness is an important aspect of care. The review and assessment is designed to identify problems and develop procedures to prevent and resolve the problems.

Important Aspects of Care—clinical activities that involve a high volume of patients, that entail a high degree of risk for patients, or that tend to produce problems for staff or the patients are deemed most important for purposes of monitoring and evaluation.

Monitoring—a process of surveillance, and/or auditing to identify systemic or localized problem area(s) where improvement may be indicated.

Performance Indicators—the measurement tool used to monitor and evaluate the facility's quality of management, clinical services, and support functions.

Pursuit of Opportunity to Further Improve Care—applies pro-active efforts to identify and implement improvements.

Quality Improvement—a management led and patient focused systematic method of improving systems and processes. Its basis is a statistical process control.

Quality of Patient Care—the degree to which patient care services increase the probability of desired patient outcomes and reduce the probability of undesired outcomes.

B. Process

1. Utilization Review. At least 10 percent of all encounters shall be reviewed quarterly by the medical director and/or physician member of the advisory board.

2. Internal Evaluation. Facility shall develop and conduct an annual internal evaluation process to provide necessary data to formulate a plan for continuous quality improvement/quality assurance.

3. Quality Assurance/Continuous Quality Improvement. The facility shall have ongoing programs to assure that the overall function of the clinic is in compliance with federal, state, and local laws, and is meeting the needs of the citizens of the area, as well as attaining the goals and objectives developed from the mission statement established by the facility.

4. Quality Improvement Program. The facility shall have a written quality improvement program that addresses at least the following elements:

- a. facility philosophy/mission/goals/objectives/scope of care/services;
- b. personnel roles/responsibilities/physician supervision/nurse practitioner, credentialing/re-credentialing policy/procedures/annual review/evaluation and drug policy and procedures;

- c. important aspects of care/quality of care studies;
- d. performance indicators relative to, but not limited to, identified problem areas of the clinic or healthy outcomes;

- e. monitoring and evaluation procedures/documentation of findings;

- f. patients' rights, responsibilities, grievance and appeal policies/procedures;

- g. utilization review/medical records audit; and
- h. patient satisfaction surveys.

5. Systemic Quality Improvements. A facility shall:

- a. participate in a continuous effort to improve its performance;

- b. focus on improving patient outcomes and patient satisfaction;

- c. have objective measures to allow tracking of performance over time to ensure that improvements are sustained;

- d. develop/adopt quality indicators that are predictive of desired outcomes or are outcomes that can be measured, analyzed and tracked;

- e. identify its own measure of performance for the activities it identifies as priorities in quality assessment and performance improvement strategy;

- f. conduct distinct successful improvement activities proportionately to the scope and complexity of the clinic operations;

- g. immediately correct problems that are identified through its quality assessment and improvement program that actually or potentially affect the health and safety of the patients;

- h. make an aggressive and continuous effort to improve overall performance of clinic and personnel; and

- i. use the process of improvement (identification of patient care and service components; application of

performance measures; and continuous use of a method of data collection and evaluation) to identify or trigger further opportunities for improvement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1851 (October 1999).

§7531. Patient's Rights and Responsibilities

A. The facility shall provide education to personnel regarding patient rights during orientation at least annually, and post a copy of the patient's rights in a conspicuous place.

1. Patients of Rural Health Clinics shall have the right to:

- a. be treated equally and receive care without regard to age, sex, religion, race or creed;
- b. receive care that is not determined by patient's ability to pay for service;
- c. confidentiality of his/her clinical records;
- d. be informed of all costs and expected payment from other resources;
- e. be treated with respect for the individual patient's comfort, dignity and privacy;
- f. be informed of his/her rights in advance of care being provided;
- g. access information contained in his/her clinical records within a reasonable time frame;
- h. make decisions regarding his/her care;
- i. formulate advance directives and have staff/practitioners to comply with those directives;
- j. maintain personal privacy and receive care in a safe setting; and
- k. be free from verbal or physical abuse or harassment from staff.

2. Patients of Rural Health Clinics are responsible for:

- a. providing, to the extent possible, information needed by professional staff in caring for the patient;
- b. following instructions and guidelines given by those providing health care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1852 (October 1999).

§7533. Advisory Committee

A. All members of the advisory committee shall be designated in writing and approved by the governing board. The advisory committee shall be composed of two medical professionals, and at least one consumer of services; none may be employed by the facility. However, facility staff should attend meetings.

1. Qualifications

a. Medical professionals may be any Louisiana licensed health care professional, including but not limited to, medical doctor, registered nurse, board certified social worker, pharmacist, or physical therapist.

b. Consumers must be members of the local community, over 21 years of age, and not affiliated by employment, family, finance or contract with the facility or its owners.

2. Responsibilities. The Advisory Committee shall:

a. meet annually to review the facility's mission/philosophy, operations, finances, policies and

planned activities to assure that the facility is improving access and health care to the community; and

b. provide suggestions regarding facility changes based upon community needs, growth, and support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1852 (October 1999).

§7535. Physical Environment

A. Occupancy. The facility shall have written approval from the appropriate agency to verify compliance with Office of the State Fire Marshal.

B. Safety. The following are fundamental to the effective management of a facility:

1. preventing, reporting and correcting threatening situations, equipment failures, and actual incidents that involve injury or damage to property;

2. proper safety management;
3. emergency preparedness;
4. proper storage and disposal of trash and medical waste;
5. proper temperature control, light and ventilation;
6. proper storage of drugs and cleaning material; and
7. clean and free of hazards;

a. bathrooms shall be vented to outside and have adequate soap, hand towels and hot water to promote infection control;

b. general appearance of facility shall be neat and clean;

8. exits shall not be obstructed and facility shall have:

- a. a minimum of two exits spaced as widely apart as possible;

b. exit doors that are at least 34 inches wide but less than 48 inches;

c. exit corridors that are at least 44 inches wide and do not pass through a storage room, mechanical room, or kitchen;

d. clearly marked exits and exit pathways with exit signs and arrows;

e. adequate light at all times. If the facility is occupied at night, all exit signs must be internally lighted and corridors must have emergency light units;

f. doors which can be opened from inside the room or area without a key or special knowledge; and

g. exit signs over each exit door and also at every corridor junction. At least one exit sign must be visible from any location in the building;

9. locks:

a. no door equipped with a self closure device (except entry/exit doors) may ever be blocked open;

b. every lock must be operable from inside the room or area;

10. miscellaneous:

a. the facility shall have one fire extinguisher (minimum size 2A) for each 1500 square feet. It must be inspected and tagged annually; and, the gauge must show in the white, green, or "overcharged" areas. It may be Type A or Type ABC;

b. Any storage room over 50 square feet must have an automatic door closure device. No flammable liquids (such as gasoline, diesel, etc.) may be stored inside the

facility. However, alcohol and cleaning supplies are allowed in reasonable quantities;

c. any compressed gas cylinder, regardless of type and/or amount of contents, must be on a rack or chained to avoid tipping;

d. at a minimum a fire wall rated for one hour must separate the facility from any other occupied area. Criteria for the wall include:

i. one layer of 5/8 inch fire code sheetrock or other limited or non-combustible material on each side;

ii. separation wall must extend completely to the roof deck with no unsealed penetrations or holes;

iii. one and 3/4 inch doors (if doors are present) must be solid core with automatic self-closure device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1852 (October 1999).

David W. Hood
Secretary

9910#081

RULE

Department of Insurance Office of the Commissioner

Regulation 62—Managed Care Contracting Requirements (LAC 37:XIII.Chapter 53)

In accordance with the provisions of LA R.S. 49:950 of the Administrative Procedure Act, the Department of Insurance hereby adopts Regulation 62. The purpose of this regulation is to implement the standards of and assure compliance with Acts 897 and 1495 of the 1997 Regular Session of the Louisiana Legislature which provide for the required participation of qualified rural hospitals and their practicing physicians, through the establishment of reasonable contracting requirements for medical services, that do not jeopardize the health of enrollees or plan members. This regulation took effect on March 20, 1999.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 53. Regulation 62—Managed Care Contracting Requirements

§5301. Purpose

A. The purpose of this regulation is to establish the reasonable authority and obligation of managed care organizations related to provider contracts under Acts 1485 and 897 of the 1997 Regular Session of the Louisiana Legislature. The provisions of LA R.S. 40:1300.125 and LA R.S. 40:1300.145 establish the legislative intent for qualifying rural hospitals, and their practicing physicians, to be allowed to participate in the health care delivery systems of managed care organizations. These statutes also establish the intent of the legislature that managed care organizations provide reasonable reimbursement for the services provided by qualifying rural hospitals and the physicians who practice at these hospitals.

B. Act 897 of the 1997 Regular Session of the Louisiana Legislature amends Titles 40 and 22 of the Louisiana Revised Statutes to prohibit managed care organizations from using incentive arrangements that impede, impair, or otherwise diminish the ability of a plan member or enrollee to receive appropriate and necessary medical care and treatment. These statutes also establish the legislative intent that any prohibitions on the authority of an insurer to contract for delivery of health benefits through capitation or shared risk arrangements be limited to non-compliant incentive arrangements. To carry out the intent of the legislation and assure full compliance with the provisions of these Acts, this regulation establishes reasonable contracting requirements that are applicable to managed care organizations and assures uniformity in application of terms and conditions for participation.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. 22:3, R.S. 22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1853 (October 1999).

§5303. Definitions

Accreditation/Certification—a hospital that is accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) or Medicare certified for provision of acute care hospital services.

Community—the parish in which a qualifying rural hospital is located.

Discriminate—to apply a payment methodology that relies upon terms and conditions that are more restrictive than those terms and conditions applicable to non-rural hospitals or their practicing physicians in a region which result unreasonable payment to a qualifying rural hospital or physician practicing in such hospitals. A payment methodology that results in reimbursement to a qualifying rural hospital or practicing physician that is equal to or greater than the reimbursement to non-rural participating hospitals or physicians in the region, shall be considered non-discriminating.

Employee—a person employed directly by a managed care organization and does not include any contract, temporary, or other type of employment arrangement.

Geographic Area—a Parish.

Health Benefit Plan—any health insurance policy, plan, or health maintenance organization subscriber agreement, issued for delivery in this state under a valid certificate of authority by an entity authorized by law to bear risk for the payment of health care services.

Health Care Provider—a physician duly licensed to practice medicine by the Louisiana State Board of Medical Examiners, or other health care professional duly licensed in Louisiana, or an acute care hospital licensed to provide medical care in this state. The term shall also mean any legal entity or organization formed for the primary purpose of providing medical or health care services and provides such services directly or through its participants.

Incentive Arrangement—any payment or contractual obligation included in a general payment plan, capitation contract, shared risk arrangement, or other agreement

between a managed care organization and a health care provider that is tied to utilization of covered benefits.

Managed Care Organization—a health maintenance organization or other entity authorized by law to bear risk for the payment of health care services that holds a valid certificate of authority to issue for delivery in this state a health benefit plan.

Pass Through Payments—any funds or payments received by a managed care organization for the purpose of reimbursing the cost of services provided by a health care provider, that are not covered by the health care provider's contract, including but not limited to research grants, and federal payments for indigent care.

Payment Differential—a difference in the amount paid to a health care provider resulting from negotiations to establish a capitation, risk sharing, or other payment arrangement that is based on financial incentives necessary to establish medical services within a geographic area of the state.

Practicing—a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners who has established his/her practice in the geographic area where the rural hospital is located, maintains active hospital staff privileges, and provides medical treatment in said hospital on a weekly basis. The term shall also include any physician whose participation is essential to provision of services covered under a rural hospital's contract with a managed care organization or treatment of enrollees admitted to the hospital, provided such services are appropriate and within the scope of the hospital's accreditation/certification. The term does not include physicians who are merely affiliated, or associated with a rural hospital or any physician whose participation is essential to treatment of enrollees admitted to the hospital based on the unreasonable refusal of a hospital to utilize another physician available through the managed care organization who is qualified to provide the needed medical services to the patient.

Region—a group of parishes designated by a managed care organization for establishing reimbursement amounts for payment of practicing health care providers. A managed care organization may follow congressional districts or such other reasonable grouping of contiguous parishes in establishing regions. In establishing regions, a managed care organization shall include all parishes of the state and limit the total number of regions to seven. In no event shall any regional configuration be established that acts to discriminate unfairly against qualifying rural hospitals or their practicing physicians.

Rural Hospital—a hospital qualifying to participate in a Health Maintenance Organization under the requirements of Part L of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of LA R.S. 40:1300.115.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. 22:3, R.S. 22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1853 (October 1999).

§5305. Applicability and Scope

A. Except as otherwise specifically provided, the requirements of this regulation apply to all managed care organizations holding valid certificates of authority to issue

for delivery in this state, an insurance policy, plan, or health maintenance organization subscriber agreement. This regulation addresses the requirements of LA R.S. 40:1300.115 regarding contracts with rural hospitals and their practicing physicians and establishes standards for participation in a managed care organization. The provisions of this regulation require managed care organizations to provide covered medical benefits either directly, or through contractual agreements with health care providers. A contractual agreement between a managed care organization and a health care provider shall require the health care provider to either:

1. provide covered medical services directly; or
2. in conjunction with other health care providers who are required, under contract or other arrangement, to meet the same statutory and regulatory requirements applicable to health maintenance organization contracts with health care providers.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. 22:3, R.S. 22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1854 (October 1999).

§5307. Provider Contracting Requirements

A. LA R.S. 40:1300.115 requires managed care organizations to accept qualifying rural hospitals, and their practicing physicians who meet specific statutory criteria, as providers of health care subject to the terms and conditions that are no more restrictive than applicable to other hospitals. This requirement applies in every parish where a managed care organization holding a valid certificate of authority issued by the Louisiana Department of Insurance, has policies, subscriber agreements, or contracts for delivery of benefits in effect. LA R.S. 22:2016E. requires all hospitals and health care providers utilized by health maintenance organizations to be licensed under applicable state law. LA R.S. 22:2021 prohibits health maintenance organizations from adopting or utilizing administrative treatment guidelines that fall below the appropriate standard of care. Additionally, LA R.S. 22:2019 prohibits the utilization of a certificate of authority by any person other than the organization or entity issued said certificate.

1. All contracts for delivery of covered medical services shall be between the managed care organization and a health care provider, except contracts with other insurers for provision of health coverage. A managed care organization is only authorized to contract for delivery of health care services with one or more health care providers. Contracts with brokers, agents, or any entity other than a health care provider for the provision of covered medical services are prohibited. A managed care organization may allow health care providers to utilize other health care providers under contract with the managed care organization.

2. A managed care organization shall limit the medical services included under a health care provider contract to those for which the health care provider is qualified and reasonably capable of providing.

3. A managed care organization shall not adopt or utilize payment standards for health care providers that:

- a. require or induce by incentive or payment, the delivery of inappropriate medical care or treatment services;

b. allow the provision of inappropriate or unnecessary medical procedures or treatment services;

c. allow health care providers to perform, for payment, medical or treatment services for which they are not qualified;

d. include an incentive or specific payment made directly or indirectly, in any form, to a health care provider as an inducement to deny, reduce, limit, or delay specific, medically necessary, and appropriate services provided with respect to a specific insured or groups of insureds with similar medical conditions.

4. In any review of the terms and conditions of a health care provider's contract conducted by the Department of Insurance, the contract shall not be subject to disclosure to any other health care provider without the expressed written consent of the parties to such contract, except as otherwise allowed by law.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. 22:3, R.S. 22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1854 (October 1999).

§5309. Requirements for Inclusion of Rural Hospitals

A. Managed Care Organizations Utilizing A Staff Model Approach.

1. Any managed care organization that directly provides health care services to insureds exclusively through its employees and wholly owned facilities that are duly licensed to provide such health care services, are not required to contract with qualifying rural hospitals except:

a. in any geographic area where the managed care organization has insufficient staff and/or facilities to provide the plan of benefits to insureds;

b. for health care services available in the insureds community that are not readily accessible through the managed care organization within a reasonable distance of the community.

c. for other covered services available in the insureds community that are not readily accessible through the managed care organization within a reasonable distance of the community;

d. in a geographic area where the managed care organization utilizes public or private staff or hospitals to furnish health care services.

B. General Managed Care Organization Requirements. A qualifying rural hospital shall be allowed to contract for provision of medical services to insureds or enrollees of a managed care organization who reside in the community where the hospital is located, and can reasonably be expected to utilize the hospital for provision of one or more medical services included in the contract. A qualifying rural hospital shall also be allowed to contract for provision of medical services to other insureds or enrollees of a managed care organization, if the qualifying hospital is located in a parish that is serviced by such managed care organization. The terms and conditions for participation by a qualifying rural hospital shall be no more restrictive than those normally applied to other participating hospitals in the region of the state where the rural hospital is located. Where the managed care organization offers the majority of participating hospitals a choice in contracting on a capitated or non-capitated basis, the same choice shall be available to

qualifying rural hospital. In no event shall a managed care organization be required to make any special, enhanced, or extraordinary payment to a qualifying rural hospital based on its rural designation other than pass through payments. Additionally, a managed care organization is expressly prohibited from applying any factor, weight, or other adjustment that acts to reduce payment for medical services provided by a qualifying rural hospital based on its designation as a rural hospital.

C. Capitation Contracting Requirements

1. In establishment of capitation based pricing mechanisms or risk sharing arrangements, a managed care organization is authorized to use reasonable criteria that includes the scope of services available at the hospital and patient volume. A managed care organization may consider the amount and scope of services being included under such contractual arrangements in negotiating reimbursement amounts. However, in no instance shall a managed care organization base reimbursement on the exclusion of one or more qualifying rural hospitals or otherwise limiting enrollee access to appropriate medical care from such hospitals that are located in the community where the enrollee or plan member resides.

2. A managed care organization shall be authorized to use payment differentials to establish a network of providers in a geographic area. A managed care organization shall be authorized to exclude application of such payment differentials to a qualifying rural hospital unless such payment differentials are being offered to other hospitals in the same geographic area. In no instance shall a managed care organization be prohibited from offering payment differentials to a qualifying rural hospital to gain access to health care providers in a geographic area.

D. Other Contracting Requirements. Managed care organizations shall not discriminate against qualifying rural hospitals in establishing or utilizing pricing mechanisms. In no event shall a managed care organization establish payment rates or reimbursement systems that discriminate on the basis of a hospital's designation as a qualifying rural hospital. Modifiers, outliers, or weighting factors applicable to payments made to such qualifying rural hospitals on the basis of diagnosis, diagnosis for related groups (DRGs), procedure, procedure code, per diem, length of stay, or services rendered, shall not discriminate against qualifying rural hospitals, or be used to prevent participation by such hospitals or have this effect.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. 22:3, R.S. 22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1855 (October 1999).

§5311. Requirements for Inclusion of Physicians Practicing in Qualifying Rural Hospitals

A. General Managed Care Organization Requirements. A physician licensed to practice medicine by the Louisiana Board of State Medical Examiners, practicing in a qualifying rural hospital that has a health care provider contract with a managed care organization for provision of hospital services included under its accreditation/certification, shall be allowed to enter into a health care provider contract for provision of medical services to insureds or enrollees of the plan, policy, or subscriber agreement. The terms of the

health care provider contract shall be no more restrictive than the terms and conditions offered to other health care providers who deliver the same services or benefits to insureds or enrollees of the managed care organization in the state, or applicable region of the state where the physician participates in a qualifying rural hospital. Where the managed care organization offers the majority of participating physicians a choice in contracting on a capitated or non-capitated basis, the same choice shall be available to a physician practicing in qualifying rural hospital. In no event shall a managed care organization be required to make any special, enhanced, or extraordinary payment to a physician practicing in a qualifying rural hospital based on the rural designation of the physician's practice. Additionally, a managed care organization is expressly prohibited from applying any factor, weight, or other adjustment that acts to reduce payment for medical services provided by a physician practicing in a qualifying rural hospital based on the rural designation of the physician's practice.

B. Capitation Contracting Requirements.

1. In establishment of capitation based pricing mechanisms or risk sharing arrangements, a managed care organization is authorized to use reasonable criteria that includes the scope of services available from the physician and patient volume. A managed care organization may consider the amount and scope of services being included under such contractual arrangements in negotiating reimbursement amounts.

2. A managed care organization shall be authorized to use payment differentials to gain access to physicians in a geographic area. A managed care organization shall not be required to include in a health care provider contract, any amount that can be reasonably documented as resulting from application of a payment differential that is not applicable to the majority of participating physicians within a geographic area of the state who provide the same services to plan members.

C. Other Contracting Requirements. Managed care organizations shall not discriminate against physicians practicing in qualifying rural hospitals in establishing or utilizing pricing mechanisms. In no event shall a managed care organization establish payment rates or reimbursement systems that discriminate on the basis of a physician's designation as a practicing physician in a qualifying rural hospital or have that effect.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. 22:3, R.S. 22:215.18, 2:2006,22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1855 (October 1999).

§5313. General Provisions

A. No health care provider contract entered into by a managed care organization shall include any provision or requirement that directly, or indirectly acts to transfer the organization's certificate of authority. A managed care organization shall not be relieved from performance of all required obligations under Title 22 of the Louisiana Revised Statutes of 1950 by any contract or agreement with a health care provider.

B. Managed care organizations shall assure that all contracts issued on or after July 1, 1998 are in full

compliance with the requirements of this regulation. All other contracts shall be brought into compliance upon renewal, amendment, or revision, but in no event later than December 31, 1999.

C. Qualifying rural hospitals and their practicing physicians shall be subject to the same administrative procedures and remedies as any other complainant who files a valid complaint with the Department of Insurance. Managed care organizations found to be violating the requirements of this regulation shall be considered to be engaging in unfair trade practices as defined under LA R.S. §1214 (12). All administrative remedies for any aggrieved party shall be governed by the provisions of Part XXIX of Chapter 1, of Title 22 of the Louisiana Revised Statutes of 1950 comprised of §§1351 - 1367.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. 22:3, R.S. 22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1856 (October 1999).

James H. "Jim" Brown
Commissioner

9910#034

RULE

**Department of Labor
Plumbing Board**

Insurance Requirements
(LAC 46:LV.308)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.308, in accordance with the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

§308. Insurance Requirements for Master Plumbers

A. - H. ...

I. If an employing entity is exempt from the worker's compensation laws, as provided by applicable Louisiana law, it shall execute an affidavit of non-coverage on a form provided by the board. Failure to timely submit this affidavit may subject the employing entity to special enforcement fees under §308 of these regulations and/or an action for injunctive relief by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended by Department of Employment and Training, LR 17:53 (January 1991), amended LR 18:30 (January 1992), LR 19:897 (July 1993), amended by the Department of Labor, Plumbing Board, LR 25:1856 (October 1999).

Don Traylor
Executive Director

9910#040

RULE

**Department of Labor
Plumbing Board**

Journeyman Plumber—Exam Requirements
(LAC 46:LV.305)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.305.A.4, in accordance with the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

**§305. Requirements to Take Exam for Journeyman
Plumber's License**

A. Requirements

1. - 3. ...

4. He shall submit his application and required documents to the Baton Rouge or New Orleans office of the board not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule.

5. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, 1968, amended LR 14:440 (July 1988), LR 15:1088 (December 1989), repromulgated, as amended, by the Department of Employment and Training, State Plumbing Board, LR 17:51 (January 1991), amended by the Department of Labor, Plumbing Board, LR 25:1857 (October 1999).

Don Traylor
Executive Director

9910#031

RULE

**Department of Labor
Plumbing Board**

Journeyman Plumber—Exam Requirements
(LAC 46:LV.305)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.305.F, in accordance with the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

**§305. Requirements to Take Exam for Journeyman
Plumber's License**

A. - E. ...

F. The chairman of the board shall appoint the examiner or examiners, who may be representatives of a private professional service provider qualified to administer a standardized, nationally recognized test duly adopted by the

board. If necessary, the chairman shall appoint additional examiners to conduct the special examination described in §305.G, or an examiner to conduct any special examination required as an accommodation to a qualified disabled individual under the Americans with Disabilities Act.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, 1968, amended LR 14:440 (July 1988), LR 15:1088 (December 1989), repromulgated, as amended, by the Department of Employment and Training, State Plumbing Board, LR 17:51 (January 1991), amended by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), LR 25:1857 (October 1999).

Don Traylor
Executive Director

9910#030

RULE

**Department of Labor
Plumbing Board**

Licenses Required
(LAC 46:LV.301)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.301, in accordance with the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

§301. Licenses Required

A. - L. ...

M. In the event any applicant for any license or endorsement who successfully completes a required examination, but fails to pay to the board any requisite license or endorsement fee within 90 days of notice of his examination results shall not be issued the applicable license or endorsement unless and until he submits to an successfully completes re-examination and pays the appropriate fees for such re-examination and subsequent license or endorsement fee. Imposition of this re-examination requirement may be waived for good cause. Any special endorsement fees incurred before or during the re-examination process shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, 1968, promulgated as amended by the Department of Employment and Training, LR 17:49 (January 1991), amended LR 19:897 (July 1993), amended by the Department of Labor, Plumbing Board, LR 19:1593 (December 1993), LR 21:1348 (December 1995), amended by the Department of Labor, Plumbing Board, LR 25:1857 (October 1999).

Don Traylor
Executive Director

9910#028

RULE

**Department of Labor
Plumbing Board**

Master Plumber—Exam Requirements
(LAC 46:LV.306)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.306, in accordance with the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

**§306. Requirements to Take Exam for Master
Plumber License**

A. Requirements

1. - 4. ...

5. He shall submit his application to the Baton Rouge or New Orleans office of the board and all required documents not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule.

6. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, 1968, repromulgated, as amended, by the Department of Employment and Training, State Plumbing Board, LR 17:52 (January 1991), amended by the Department of Labor, Plumbing Board, LR 25:1858 (October 1999).

Don Traylor
Executive Director

9910#043

RULE

**Department of Labor
Plumbing Board**

Medical Gas Piping Installer License
(LAC 46:LV.304)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.304, in accordance with the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

§304. Medical Gas Piping Installer License

A. - G ...

H. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an

organization certified pursuant to R.S. 37:1368(G), as evidence of successful completion of the examination referred to in R.S. 37:1368(G). Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas described in §304.B.4 of the regulations.

I. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), amended LR 24:339 (February 1998), amended by the Department of Labor, Plumbing Board, LR 25:1858 (October 1999).

Don Traylor
Executive Director

9910#029

RULE

**Department of Labor
Plumbing Board**

Seasonal and Part-Time Employees
(LAC 46:LV.701)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.701.D, in accordance with the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 7. Board Employees

§701. Seasonal and Part-Time Employees

A. - C.5. ...

D. Examiners

1. - 1.a. ...

b. correct any papers pertaining to the examination and tabulate for final grades, before leaving, unless the examination is administered by a representative of a private professional service provider as described in §305.F of these regulations;

D.1.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, 1968, repromulgated, as amended, by the Department of Employment and Training, State Plumbing Board, LR 17:55 (January 1991), amended by the Department of Labor, Plumbing Board, LR 25:1858 (October 1999).

Don Traylor
Executive Director

9910#027

RULE

**Department of Labor
Plumbing Board**

**Water Supply Protection Specialist Endorsement
(LAC 46:LV.310)**

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.310, in accordance with the Administrative Procedure Act.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

§310. Water Supply Protection Specialist Endorsement

A. - E. ...

F. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization certified pursuant to R.S. 37:1368(H) as evidence of successful completion of the examination referred to in R.S. 37:1368(H). Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas described in §310.C of these regulations.

G. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1351 (December 1995), amended by the Department of Labor, Plumbing Board, LR 25:1859 (October 1999).

Don Traylor
Executive Director

9910#026

RULE

**Department of Labor
Office of Workers' Compensation**

**Workers' Compensation—Hearing Rules
(LAC 40:I.5501-6627, 6637, 6639, 6662, and 6663)**

The Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, has amended and reenacted rules governing the procedure before the workers' compensation court, LAC 40:I, Subpart 2, Chapters 55 through 65 and Chapter 66, Sections 6601 through 6627, 6637 and 6639 and enacted Chapter 66, Sections 6662 and 6663, to provide for the procedural rules for the workers' compensation court.

In a cooperative endeavor with all users of the workers' compensation system, the Louisiana Department of Labor conducted a complete revision of the procedural rules of the workers' compensation court. Such revisions required the merger of previously enacted sections and the repeal of the merged sections. The rule establishes the procedural rules of the hearing section of the Office of Workers' Compensation Administration.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Hearing Rules

Chapter 55. General Provisions

Subchapter A. Definitions

§5501. Purpose; Definitions

A. The purpose of these Rules is to govern the practice and procedures before the Workers' Compensation Court which is a statewide court having jurisdiction of claims for workers' compensation benefits, the controversion of entitlement to benefits and other relief under the workers' compensation act. These rules are designed to facilitate the equitable, expeditious and simple resolution of workers' compensation disputed claims filed with the Court.

B. As used in these rules, unless otherwise indicated the following words shall have the following meanings:

Claimant—may, as the context requires, refer to the injured employee, the employer, the insurance carrier, the group self-insurance fund, the health care provider, or a dependant.

Court—shall mean the Office of Workers' Compensation court within the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

Director—shall mean the director of the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

Judge—shall mean a workers' compensation judge.

Mediator—shall mean a workers' compensation mediator.

Office—shall mean the Office of Workers' Compensation Administration of the Louisiana Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:264 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1859 (October 1999).

Subchapter B. Jurisdiction

§5503. Jurisdiction Authority

Jurisdiction over workers' compensation matters is conferred upon the Office of Workers' Compensation Administration pursuant to Louisiana Constitution Article V, §16(A)(1) and R.S. 23:1310.3, et. seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1859 (October 1999).

§5505. Jurisdiction over Subject Matter and Persons

Jurisdiction of the workers' compensation judges shall be governed by R.S. 23:1310.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999).

Subchapter C. Commencement

§5507. Commencement of a Claim

A. "Form LDOL-WC-1008" shall be the form to initiate a claim or dispute arising out of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950.

B. Any claim may be initiated with the director, office of worker's compensation administration, or the district office of proper venue by delivery or by mail addressed to the office of worker's compensation administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999).

§5509. Delay for Answering

A. A defendant shall file his answer within fifteen days after receipt of the citation from the mediator and in accordance with Code of Civil Procedure Articles 1001, 1005 and 1006. The defendant shall certify that a copy of the answer was sent to all parties to the claim.

B. The filing of the answer shall be deemed timely when the answer is filed as provided in R.S. 23:1310.3(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999).

§5511. Service

Service of process in a workers' compensation claim shall be by certified mail, at mediation by the mediator, or any other manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999).

§5513. Persons Authorized

Repealed.

Subchapter D. Venue

§5515. Proper Venue

Proper venue in a workers' compensation claim shall be governed by R.S. 23:1310.4 and Code of Civil Procedure Articles 44 and 121. When a claim has been filed in a district of improper venue, the judge shall, in the interest of justice, transfer the claim to a district of proper venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR

25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999).

§5521. Waiver of Objections to Venue

Repealed.

§5523. Action Brought in Improper Venue; Transfer

Repealed.

Subchapter E. Recusation of Judges

§5525. Procedure for Recusal of a Workers'

Compensation Judge

A.1. Any party to a workers' compensation claim may file a written motion for recusal of the judge to whom the matter is assigned specifying the grounds for recusation. This motion shall be filed prior to trial or hearing unless the party discovers the facts constituting the ground for recusation thereafter. In such case, the motion shall be filed immediately after the facts are discovered, but in no case after judgment. Upon receipt of the motion, the judge shall withdraw without further proceedings and authority and immediately refer the matter to the Chief Judge for appointment of an ad hoc judge for contradictory hearing on the motion. Such hearing shall be held in an expedited manner and in no event later than fourteen days following filing of the motion.

2. Qualification for appointment as an ad hoc judge shall be governed by the provisions of R.S. 23:1310.1(B).

B. Grounds for recusal shall be as provided in Code of Civil Procedure Article 151.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999).

§5527. Grounds

Repealed.

§5529. Recusation on Court's Own Motion

A judge may recuse himself after notifying the chief judge, whether a motion for recusation has been filed by a party or not, in any claim in which a ground for recusation exists prior to a judgment being rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999).

§5531. Authority of Judge or Mediator until Rescued

Repealed.

Subchapter F. Power and Authority

§5533. General

A. Workers' compensation judges shall have the power to enforce any lawful order and the discretionary authority to use necessary sanctions, including dismissal, in order to control the orderly process of the hearing, enforce orders, and these rules.

B. Except as provided in §5709, a workers' compensation judge or mediator shall not refer any claimant to an attorney for representation in a workers' compensation matter unless ordered to appoint an unrepresented party by a court of competent jurisdiction. The court shall have

available a list of attorneys, compiled by the Director, who have indicated a willingness to handle workers' compensation matters.

C. All workers' compensation judges shall be subject to the Code of Judicial Conduct, Civil Service Rules, the Louisiana Code of Governmental Ethics and the LSBA Code of Professional Conduct. All workers' compensation mediators shall be subject to the Civil Service Rules, the Louisiana Code of Governmental Ethics, and the LSBA Code of Professional Conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.3(E).

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1860 (October 1999).

§5535. Contempt

A. Contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.

B. Contempt proceedings in a workers' compensation proceeding shall be governed by R.S. 23:1310.7(B). This procedure is favored and shall be construed to accomplish the just, speedy, and orderly process of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1861 (October 1999).

§5537. Procedure

A person accused of committing contempt of court may be found guilty and punished only after application to the district court as provided in R.S. 23:1310.7(B). The allegation may issue on the court's own motion or on motion of a party to the claim and shall state the facts alleged to constitute the contempt. A person accused of committing a contempt of court shall be served with a certified copy of the motion, in the same manner as a subpoena, at least forty-eight hours before the time assigned for trial of the rule in the district court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1861 (October 1999).

Subchapter G. Clerks

§5539. District Clerk; Pleadings Filed; Docket Books

Each workers' compensation district and the Records Management division shall have a clerk(s), who shall be an ex officio notary public. The supervisor of the Records Management division shall be the custodian of all records and documents for that district or the Office and no such records, documents, or paper shall be withdrawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of

Labor, Office of Workers' Compensation Administration, LR 25:1861 (October 1999).

Subchapter H. Bailiffs

§5541. Security

A. The term "Bailiff" shall refer to any peace officer or duly commissioned reserve officer assigned by the Director to maintain order at each workers' compensation court.

B. The bailiff may in his discretion inspect any object carried by any person entering the premises. No one shall enter or remain in the premises without submitting to such an inspection if requested to do so.

C. Unless authorized by the Judge, no camera, recording equipment or other type of electrical or electronic device shall be brought into the premises.

D. No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless he or she has been authorized in writing by the Director to do so, or unless he or she is a peace officer or duly commissioned reserve officer.

E. The bailiff shall enforce the whole of this rule, and pursuant to his authority as a peace officer or duly commissioned reserve officer, shall be authorized in his discretion to take any legal action necessary to preserve the order and security of the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1861 (October 1999).

Subchapter I. Attorneys and Other Persons Before the Court

§5543. Workers' Compensation Courtroom Decorum

A. The following shall be observed in the opening of workers' compensation court and general courtroom decorum:

1. The bailiff shall open each session of workers' compensation court with an appropriate recitation and order.
2. No tobacco in any form will be permitted at any time.
3. No food or beverage shall be brought into the courtroom.

B. As officers of the workers' compensation court, attorneys are reminded of their obligations to assist in maintaining the dignity of the court. All attorneys and other officers of the court shall dress appropriately. For gentlemen, this means a coat and tie. For ladies, this means appropriate professional attire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1861 (October 1999).

§5545. Attorneys

In all hearings before the Workers' Compensation Judge the parties may appear in person or by counsel licensed to practice law in the State of Louisiana. Corporate entities, unincorporated associations, insurance companies and own-risk carrier shall appear only by such counsel. Counsel who will appear before the Workers' Compensation Judge on

behalf of a party in any proceeding shall notify the Office of Workers' Compensation of their appearance by filing an entry of appearance or other appropriate pleading and shall be bound by Code of Civil Procedure Article 371.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1861 (October 1999).

§5547. Withdrawal of Counsel

A. When an attorney seeks to obtain an ex parte order to withdraw as counsel for a party, he shall include in his application the last known address of the claimant along with a statement that he has given written notice to the party he was previously representing that he is no longer of counsel to him and of the status of the case on the court's docket. The attorney shall certify to the court that he has given notice to all counsel of record at the same time and in the same manner as notification to the court. A copy of such written notice and certification shall be attached to the application for the ex parte order for withdrawal. An attorney who has been permitted by ex parte order to withdraw shall give notice of same to all parties.

B. Counsel of record who withdraws or is discharged prior to submission of the case, and desires to assert a claim for fees, must attach a statement to that effect and set forth the period of time during which his client was under his or her representation. Counsel shall also file a lien form, to be developed by the Director, identifying any lien he may have on the pending claim for payment of attorney fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1862 (October 1999).

Chapter 57. Actions

Subchapter A. General Provisions

§5701. Prescription; Filing Procedure

A. Prescription periods shall be as set forth in R.S. 23:1031.1(E),(F),(I), 1209, and 1234. Time limits shall be calculated from the date of mailing as shown by the post mark, other proof of mailing, or the date a facsimile transmission is received.

B. Filing shall be deemed complete at the time that a facsimile transmission is received. A facsimile, when filed, has the same force and effect as the original. If the party fails to comply with the requirements of Paragraph (3) of Subsection C, of this Section, a facsimile filing shall have no force or effect.

C. Within five days, exclusive of legal holidays, after the district office or the records management division have received a facsimile transmission, the party filing the document shall forward the following to the district office or records manager:

1. the original signed document;
2. the applicable filing fee, if any; and
3. a transmission fee of \$5.00 (five dollars).

D. Upon receipt in the office, the pleading or forms and any other correspondence shall be stamped with the date of receipt by the appropriate court personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1862 (October 1999).

§5703. Prematurity

Prematurity in a workers' compensation claim shall be governed by R.S. 23:1314.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:267 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1862 (October 1999).

§5705. Abandonment

A. A claim may be dismissed by an ex parte order of the judge for lack of prosecution for the following reasons:

1. Where no service of process and/or mediation has occurred within sixty (60) days after the Form LDOL-WC-1008 has been filed;

2. Where no responsive pleadings have been filed and no default has been entered within sixty (60) days after service of process;

3. Where a claim has been pending six (6) months without proceedings being taken within such period. This provision shall not apply if the claim is awaiting action by the workers' compensation court; or

4. Where a party fails to appear for a properly noticed conference or trial.

B. Any formal discovery as authorized by these rules and served on all parties whether or not filed of record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of an action.

C. Dismissal under this Rule shall be without prejudice. Any order of dismissal shall allow for reinstatement of the action within thirty (30) days for good cause shown.

D. The failure of an attorney or pro se litigant to keep the workers' compensation court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to a party or the workers' compensation court for the reason of an incorrect address and no correction is made to the address for a period of thirty (30) days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1862 (October 1999).

§5707. Class Actions

No class action will be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1862 (October 1999).

Subchapter B. Settlement

§5709. Joint Petition Settlements; Appointment of Counsel

A.1. A lump sum or compromise settlement shall be presented to the presiding judge in a pending disputed claim or to any judge in an undisputed claim for approval on Form LDOL-WC-1011 and upon joint petition of the parties. The employer/insurance carrier must also submit Form LDOL-WC-1007 if it has not been filed previously with the office.

2. A hearing in open court with all parties present shall be required when one or more parties is not represented by counsel. Appearance by the parties and/or their representative may be waived if all parties are represented by counsel. In special circumstances and in the interest of judicial economy, the judge may allow the unrepresented party to waive his appearance and permit the party to appear by telephone. Appearance by the represented parties and/or their representative may be waived in written form.

B. When one or more parties is not represented by counsel, the judge may appoint an attorney to assist the court in determining whether the settlement does substantial justice and is in the best interest of all parties. In such cases the court may approve an attorney's fee to be paid out of the proceeds of the settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1863 (October 1999).

§5711. Conversion of Payments to Lump Sum Settlements

Repealed.

Chapter 58. Pleadings

Subchapter A. General

§5801. Pleadings Allowed

The pleadings allowed in workers' compensation claims, whether in a principal or incidental action, shall be in writing and shall consist of petitions, exceptions, written motions, answers, and Office of Workers' Compensation Administration forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1863 (October 1999).

§5803. Signing of Pleadings

Repealed.

Subchapter B. Supplemental/Amended Pleadings

§5805. Amendment of Claim and Answer

Amendment of a claim and answer shall be governed by Code of Civil Procedure Article 1151.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:268 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1863 (October 1999).

§5807. Supplemental Pleadings

Repealed.

Subchapter C. Form

§5809. Forms

The Office of Workers' Compensation Administration shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation Administration as it may deem necessary or advisable. Whenever Office of Workers' Compensation Administration forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any District Office or the office of the Director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1863 (October 1999).

§5811. Format of Documents

A. Any pleading or other document submitted to the Director or to any judge shall be typed or printed legibly on 8 ½ x 11" paper and shall bear the name and signature of the person who prepared it, the firm name, if applicable, the complete address including the zip code, the telephone and facsimile number, including the area code and the docket number, if one has been assigned to the claim. All attorneys shall note their bar roll number on all documents and correspondence.

B. Copies of all correspondence and any other instruments sent to the Office of Workers' Compensation Administration shall be sent at the same time and in the same manner by the party originating the correspondence to all other parties of record in the case and a certificate to that effect shall be attached to the original and filed with the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1863 (October 1999).

Subchapter D. Mediation

§5813. Informal Mediation

A. Within 15 days of receipt of a claim in a district of proper venue but with not less than 5 days notice to the parties, unless the parties agree to meet at an earlier date, the district office shall set the matter for an informal mediation conference with a mediator. The notice may be given by telephone, but shall be confirmed by United States Mail. The notice shall indicate the date, time, and place of the conference. Upon filing of the LDOL-WC-1008 any party to the claim and/or their representative may request a copy of the Form 1008 filed in the case. No such request shall be denied by an employee of the Office of Workers' Compensation Administration.

B. The purpose of the informal mediation conference shall be to mediate and encourage resolution of the dispute. As such the conference is designed for employees, employers and/or adjusters or claims managers. Within 24 hours of receipt of notice of the informal mediation conference, the employer shall notify his workers' compensation insurer or adjuster, in case of a self-insured, of the date, time and place of the conference.

C. The informal mediation conference may be held by telephone if agreed to by all parties to the claim and they are represented by an attorney or authorized claims representative. Notice should be given that such agreement has been reached no later than five (5) days prior to the mediation. The defendant must have available at the time of the mediation a facsimile machine to accept service. Telephone mediations shall not be permitted in claims where a party is unrepresented; except in special circumstances or in the interest of justice, the mediator may allow a party to appear by telephone. All parties to a telephone mediation shall provide the mediator with all information required by Subsection D of this Section prior to the scheduled mediation.

D. If available, the parties shall bring or mail to the office prior to the conference two (2) legible copies of the following: LDOL-WC-Form 1007, current medical bills and reports, information on workers' compensation benefits previously paid, wage records, vocational rehabilitation records and any other documents relevant to the issues of the claim. If the employer has failed to timely file a completed 1007, the employer shall be assessed a fine in accordance with LAC 40:109. Nothing contained in the Form LDOL-WC-1007 shall be considered as an admission of any fact contained therein.

E. No stenographic report shall be taken at the informal mediation conference and no witnesses shall be called. All statements made at the mediation conference shall be privileged and shall not be admissible in any subsequent hearing or trial.

F. Continuances of the mediation conference may be permitted for good cause shown by written request to the mediator no later than three days prior to the conference, unless exigent circumstances exist. The request shall state the reasons the continuance is necessary, that all parties have been notified of the request, and whether all parties agree to the continuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1863 (October 1999).

§5815. Mediation Ordered by Judge

Repealed.

§5817. Conclusion of Informal Mediation Conference

A. When it becomes apparent during the course of a mediation conference that agreement on all issues cannot be reached, the mediator shall issue a report stating the result of the conference and, at the initial conference, immediately issue citations to all defendants. The report shall be issued to the parties immediately following the conference or mailed within five (5) days thereof.

B. If in the mediator's judgment a follow-up mediation conference would be beneficial and would likely resolve the dispute, a date shall be set for the conference. The scheduling of an additional conference(s) shall not delay issuance of citation to the defendant(s).

C. Following a mediation conference, at which agreement is reached on all issues in dispute, a report embodying the agreement shall be issued to the parties and

the judge within five (5) days thereof. The report may require dismissal of the claim or the filing of an LDOL Form 1011 within a specified period of time. Failure to timely comply with the agreement will result in issuance of citations to all defendants. When all issues in dispute are resolved at any mediation conference, the Office of Workers' Compensation Administration may waive payment of the \$30.00 filing fee.

D. If any proper party defendant is present or represented at the informal mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. If the defendant(s) is participating by telephone, citation shall be waived and service shall be accepted by facsimile. A signed waiver form shall be returned within twenty-four hours after the conclusion of the mediation by facsimile transmission. The original signed waiver form shall be forwarded to the court no later than five days after the mediation. The original document(s) shall be mailed to the defendant(s) no later than five days following the completion of the mediation. Citation and service of process shall be proper upon any representative of the defendant appearing at the mediation conference. The affidavit of the mediator or waiver of service signed by the defendant or its authorized representative in any subsequent proceeding shall be prima facie evidence that service has been made in accordance with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:269 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1864 (October 1999).

§5819. Failure to Attend; Sanctions

A. If any party fails to appear at any informal mediation conference after proper notice, the judge, upon report from the mediator, may fine the delinquent party an amount not to exceed \$500.00, which shall be payable to the Office of Workers' Compensation Administrative Fund. In addition, the judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. If the claimant fails to appear after proper notice, the judge may dismiss the claimant's case without prejudice. The penalties provided for in this Section shall be assessed by the judge only after a contradictory hearing which shall be held prior to the hearing on the merits of the dispute unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such action by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

B. When a party without reasonable excuse, fails to appear for the informal mediation conference; the judge may apply to the District court as set forth in §5535 for contempt proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.3(B)(2).

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1864 (October 1999).

Subchapter E. Petition

§5821. Required Elements

The required elements of a workers' compensation claim shall be as provided in R.S. 23:1311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1865 (October 1999).

Subchapter F. Exceptions

§5823. Exceptions; Time for Pleading; Trial; Evidence; Effects of Sustaining

Exceptions shall be governed by Code of Civil Procedure Articles 921, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1865 (October 1999).

§5825. Trial of Exceptions

Repealed.

§5827. Evidence on Exceptions

Repealed.

§5829. Effects on Sustaining Exceptions

Repealed.

Subchapter G. Motions

§5831. Motion or Rule Day

A. Each district office shall designate a specific day of the week for the hearing of rules, motions, exceptions and arguments. A list of the rule days for each district shall be available in any district office.

B. The judge may require the parties to submit briefs in connection with any exception, rule, or motion. Briefs should be submitted forty-eight (48) hours prior to the hearing on the exception, rule or motion. A copy of the brief shall be served upon all counsel of record at the same time and in the same manner as submitted to the court.

C. In advance of the date set for the hearing of an exception, motion or rule, any counsel may notify the court that he waives his appearance and is willing to submit the matter on briefs. At the time set for the hearing, any person may waive oral argument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1865 (October 1999).

§5833. Written Motion Required; Exception

An application to the court for an order, if not presented in some other pleading, shall be by motion which, unless made during trial or hearing or in open court, shall be in writing. The written motion shall state the grounds therefor and the relief or order sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of

Labor, Office of Workers' Compensation Administration, LR 25:1865 (October 1999).

§5835. Ex Parte and Contradictory Motions

Ex parte and contradictory motions shall be governed by Code of Civil Procedure Articles 963, et seq. A contradictory hearing with the adverse party may be held unless waived upon joint motion of the parties. Appearance by the parties and/or their representative may be waived in written form. The judge may entertain such motion by telephone conference with all parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:270 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1865 (October 1999).

§5837. Motion to Strike

Repealed.

§5839. Motion for Summary Judgement

Repealed.

§5841. Same; Affidavits

Repealed.

Chapter 59. Production of Evidence

Subchapter A. General

§5901. Discovery and Attendance of Witnesses

The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The judge on his own motion at any conference may order the production of discoverable material and make any other order facilitating discovery. Copies of discovery documents are to be mailed to all parties and shall not be filed in the record of the proceedings unless attached as an exhibit to a motion or ordered by the judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:271 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1865 (October 1999).

§5903. Objections to Evidence

Except as otherwise provided in Title 23 or by these rules, objection to any evidence shall be governed by the Louisiana Code of Evidence and Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1865 (October 1999).

§5905. Protective Orders

Upon motion by a party or by a person from whom discovery is sought, and for good cause shown after contradictory hearing, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. The judge may entertain such motion by telephone conference with all necessary parties participating. Such telephone conference shall be initiated by the party requesting the telephone conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1865 (October 1999).

Subchapter B. Subpoena

§5909. Issuance; Service

A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided in §5511. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be canceled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena.

B. In order to be enforceable, subpoenas for hearing shall be served seven (7) days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be served ten (10) days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown or upon written consent of all parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1866 (October 1999).

§5911. Exceptions

A. No official of the Social Security Administration shall be subject to subpoena under these rules except for good cause shown.

B. An independent medical examiner shall be subject to subpoena only as provided in R.S. 23:1317.1.

C. The subpoena of the director or any other employee of the Office of Workers' Compensation Administration shall be governed by R.S. 23:1318.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1866 (October 1999).

§5913. Subpoena of Confidential Records

The subpoena of confidential records shall be governed by R.S. 23:1293(A)(1) and 1310.15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1866 (October 1999).

Subchapter C. Discovery

§5915. Scope of Discovery

Discovery shall be governed by Code of Civil Procedure Articles 1421, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:272 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1866 (October 1999).

§5917. Supplementation of Responses

Repealed.

Subchapter D. Depositions

§5921. General; When Taken

The taking of a deposition shall be governed by Code of Civil Procedure Articles 1437, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1866 (October 1999).

§5923. Notice; Time and Place; Subpoena Duces Tecum

Repealed.

§5925. Depositions in Advance of Hearing; Perpetuation of Testimony

Depositions in advance of hearing shall be governed by R.S. 23:1319.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:273 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1866 (October 1999).

§5927. Deposits of Medical Personnel

Repealed.

§5929. Objections

Repealed.

Subchapter E. Interrogatories

§5931. General

Interrogatories shall be governed by Code of Civil Procedure Articles 1457, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1866 (October 1999).

Subchapter F. Production of Documents

§5933. Production of Documents; General; Medical Evidence

A. In general, the production of documents shall be governed by Code of Civil Procedure Articles 1461, et seq. and R.S. 23:1127.

B. Within ten (10) days of receiving a copy of another party's medical report, the recipient shall advise the judge in writing if there is an objection to the admission of the report in evidence. A copy of the objection shall be mailed to all parties of record in the suit. Unless the judge and all parties are timely notified of the objection, the recipient of the report shall be deemed to have waived the right to object and the report shall be admitted into evidence for all purposes at the trial. When a timely objection is received, the judge may set a hearing on the motion, or rule on the matter at the trial

on the merits. The judge further has the discretion to order, after a contradictory hearing, a deposition of the doctor if necessary to clarify a report or to obtain additional information, during the discovery period or at the trial on the merits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:274 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1866 (October 1999).

§5935. Production of Documents; Persons Not Parties

Repealed.

§5937. Requests for Medical Records

Repealed.

§5939. Objections; Medical Evidence

Repealed.

Subchapter G. Admissions

§5941. Requests for Admission

Requests for admission shall be governed by Code of Civil Procedure Articles 1466, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999).

Subchapter H. Medical Examinations

§5943. Independent Medical Examinations; Report;

Deposition of Examiner; Objections

A. The procedure for requesting an independent medical examination shall be as provided in R.S. 23:1317.1.

B. Objections to the independent medical examination shall be made on form LDOL-WC-1008 and shall be set for hearing before a judge within thirty days of receipt. No mediation shall be scheduled on disputes arising under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999).

§5945. Required Report

Repealed.

§5947. Deposition of Examiner

Repealed.

§5949. Objections

Repealed.

§5951. Cancellation of Independent Medical Examinations

Repealed.

§5953. Right of an Employee to Written Report of Medical Examination.

Entitlement of an employee to the written report of a medical examination shall be as provided in R.S. 23:1125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of

Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999).

Subchapter I. Motion to Compel

§5955. Motion for Order Compelling Discovery

Motion for order compelling discovery shall be governed by Code of Civil Procedure Articles 1469, et seq. and R.S. 13:3715.1 and §5963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:275 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999).

§5957. Order Compelling Discovery of Medical Records

Repealed.

Subchapter J. Sanctions

§5959. Withheld Medical Report

Repealed.

§5961. Refusal to Obey Subpoena

When a person who, without reasonable excuse, fails to obey a subpoena, the judge may apply to the judge of the appropriate district court as set forth in §5535 for contempt proceedings against such person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999).

§5963. Failure to Comply With Order Compelling Discovery

Failure to comply with order compelling discovery shall be governed by Code of Civil Procedure Article 1471. In addition, the judge may make an application for contempt proceedings as set forth in §5535 except in cases of an order to submit to a physical or mental examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999).

§5965. Health Care Providers; Penalties

Repealed.

Chapter 60. Pretrial Procedure

§6001. Scheduling Conference

A. Within sixty days following receipt of the answer a judge shall conduct a scheduling conference for the purpose of setting pretrial deadlines. Such conference shall be held by telephone.

B. Issues to be considered and determined at the scheduling conference shall include:

1. the necessity or desirability of amendments to pleadings;
2. discovery anticipated by the parties;
3. deadlines for amendments to pleadings; completion of discovery and scheduling of pretrial motions;
4. scheduling of the pretrial conference and if the mediator's schedule permits, the scheduling of a §6009 mediation;
5. scheduling of the trial;

6. such other matters as may aid in the disposition of the action.

C. At the conclusion of the scheduling conference and no longer than fourteen days following the conference, a scheduling order, developed by the director, shall be issued by the judge setting forth the actions taken and deadlines set at the conference. Such order shall control the subsequent course of the claim, unless modified to prevent manifest injustice upon motion of a party or by order of the court.

D. The judge in his discretion may waive the requirement of a pretrial conference. If so waived, the pretrial statement required by §6007 shall be filed as ordered by the judge. The pretrial conference should be held no less than forty-five days prior to trial.

E. The trial date should not be more than six months from the scheduling conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1867 (October 1999).

§6003. Statement of Evidence

A. Each party to the dispute shall file a statement of evidence with the appropriate district office ten (10) days prior to the scheduling conference.

B. The statement of evidence shall be signed by the party, its representative, or counsel preparing it and shall set forth:

1. A list and brief description of all exhibits to be offered into evidence. Exhibits to be used for impeachment or rebuttal need not be included on the list. Impeachment evidence shall include, but not be limited to, witnesses, documents, photographs, or films. Proposed stipulations as to exhibit authenticity and/or admissibility shall be noted on the exhibit list.

2. A list of witnesses each party may call and a short statement as to the nature but not to the content of their testimony, and whether their testimony will be offered live or by deposition. Except for the witnesses listed, no other witnesses may be called to testify except for good cause shown. This requirement shall not apply to impeachment and rebuttal witnesses.

3. Outstanding discovery and depositions to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:276 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1868 (October 1999).

§6005. Pretrial Conference

A. Each party to the dispute shall file a pretrial statement with the appropriate district office ten (10) days prior to the pretrial conference. The pretrial statement shall update and finalize all items originally submitted statement of evidence pursuant to §6003.

B. The party or counsel who prepared and submitted the pretrial statement to the workers' compensation court should attend the pretrial conference. Any substitute permitted by the court to attend the conference shall be knowledgeable of all aspects of the case and shall possess the necessary authority to commit his client or associate regarding

changes, stipulations, compromise/settlements, and trial dates.

C. The pretrial conference shall be held by telephone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1868 (October 1999).

§6007. Pretrial Statement

A. The pretrial statement shall include:

1. stipulations agreed to by all parties;
2. issues to be litigated;
3. contentions;
4. a list and brief description of all exhibits to be offered at trial;
5. a list of all witnesses to be called at trial;
6. desirability of mediation.

B. Amendments to the pretrial statement shall only be by written motion and permitted only for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1868 (October 1999).

§6009. Pretrial Mediation

If scheduled, the pretrial mediation conference should be held no later than fifteen days prior to the scheduled trial date. The judge shall set the matter for a mediation conference with the mediator who originally heard the claim or a duly qualified mediator in the absence of the original mediator. The notice may be given by telephone, but shall be confirmed in written form. The judge shall provide notice of the date, time, and place of the conference to all parties at the same time and in the same manner. The rules of mediation found in §§5813-5819 shall apply except that the parties shall appear in person. Only two mediation conferences may be held pursuant to this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1868 (October 1999).

Chapter 61. Hearings

Subchapter A. Expedited Hearings

§6101. Examination of an Injured Employee

The examination of an injured employee shall be governed by R.S. 23:1121 and 1124.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1868 (October 1999).

Subchapter B. Continuance

§6103. General

A. Continuances shall be as provided in Code of Civil Procedure Articles 1601, et seq.

B. A continuance shall not be granted for the absence of a subpoenaed witness if the subpoena was not issued in accordance with §5909 of these rules.

C. A continuance will not be entertained based upon a conflict in the schedule of any party or attorney if the conflict arose after the date of the scheduling conference, except for good cause shown or in cases of criminal assignments.

D. If uncontested, the moving party shall certify to the court that he has spoken to opposing counsel, that no opposition exists and that all witnesses have been timely notified of the continuance. The uncontested motion shall be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:277 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1868 (October 1999).

§6105. Form Required

Repealed.

§6107. Preemptory Grounds

Repealed.

Chapter 62. Trial

Subchapter A. Trial Procedure

§6201. General

Only those issues listed in the pretrial statements shall be litigated at trial. No new issues shall be raised except by written order of the judge for good cause or upon mutual agreement of the parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1869 (October 1999).

§6203. Trial on the Merits

The trial of a workers' compensation claim shall be governed by R.S. 23:1317.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1869 (October 1999).

§6205. Cumulative Medical Testimony

The introduction of medical testimony in a hearing or trial shall be governed by R.S. 23:1124.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1869 (October 1999).

§6207. Evidence Held Inadmissible

Repealed.

§6209. Testimony of Medical Personnel

Expert medical testimony may be admitted by:

A. reports of any health care provider certified as a true copy in accordance with the Louisiana Revised Statutes 13:3715.1;

B. deposition;

C. oral examination in open court proceedings; however, no more than two physicians may present testimony for either party except by order of the judge;

D. any other manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1869 (October 1999).

Subchapter B. Dismissal

§6211. Dismissal; Voluntary; Involuntary

Dismissal shall be governed by Code of Civil Procedure Articles 1671, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:278 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1869 (October 1999).

§6213. Involuntary Dismissal

Repealed.

Subchapter C. Assessment of Costs

§6215. Assessment of Costs

The determination of whether costs shall be assessed against a party shall be governed by R.S. 23:1310.9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1869 (October 1999).

Chapter 63. Judgments

Subchapter A. General

§6301. Submission of Evidence

A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing or final submission of all evidence. The parties shall file in to the record all evidence at the time of trial or hearing unless an extension is granted by the court, for good cause shown. In instances where the judge allows briefs, the parties shall be allowed a maximum of fifteen working days from the conclusion of the trial or hearing to file post trial memoranda.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1869 (October 1999).

§6303. Completion of Trial; Pronouncement of Judgment

A. The procedures for completion of trial and pronouncement of judgment shall be governed by R.S. 23:1310.5(A)(1) and 1201.3(A). All such orders, decisions, or awards shall be rendered no later than thirty calendar days after conclusion of trial.

B. Written reasons shall only be rendered if requested in written form by any party to the claim within ten days of the

signing of the judgment. The written reasons shall be issued by the judge not later than thirty days following the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1869 (October 1999).

Subchapter B. Default

§6305. Default; General Provisions; Scope of Judgment

The general rule regarding default in a workers' compensation claim shall be governed by R.S. 23:1316 and 1316.1 and Code of Civil Procedure Article 1703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

§6307. Confirmation of Judgement by Default

Repealed.

§6309. Scope of Judgement

Repealed.

Subchapter C. Modification

§6311. General

The modification of an award shall be governed by R.S. 23:1310.8(A)(1) and (B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

§6313. Amendment of Judgment

Amendments of judgment shall be governed by Code of Civil Procedure Article 1951.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

§6315. Request for Modification

Any party to the claim may apply for modification pursuant to §6311 by filing a Form LDOL-WC-1008. If the original decision or award was made by a District Court Judge, the party seeking the modification shall furnish the workers' compensation judge with the appropriate evidence and documents from the district proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

§6317. Exception

A motion for new trial shall not be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR

25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

Chapter 64. Appellate Procedure

§6401. General

All appeals shall be taken in accordance with the procedures set forth in R.S. 23:1310.5 and, where not in conflict, the Louisiana Code of Civil Procedure and the relevant rules of the appropriate circuit court of appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

§6405. Payment of Appellate Costs

Payment of appellate costs shall be governed by Code of Civil Procedure Articles 2126, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:279 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

§6407. Record on Appeal; Preparation

Repealed.

§6409. Same; Preparation and Delivery of Transcript

Repealed.

§6411. Same; Contempt

Repealed.

Chapter 65. Special Disputes

Subchapter A. Attorney Fees

§6501. Disputed Attorney Fees

When a dispute arises among several attorneys as to the identity of claimant's counsel of record, or when several successive attorneys lay claim to a fee in the same case, the judge shall decide the issues raised and allocate the fee allowed in proportion to the services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:280 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

§6503. Attorney Fees; Application, Review and Approval

A. Whenever the judge renders an award of penalties or attorney fees due to the conduct of the other party under any provision authorized by the Workers' Compensation Act, the judgment shall state the specific acts or omissions of the party which gave rise to the award of a penalty or attorney fee. When attorney fees are awarded due to the conduct of a party the judgment shall state the basis for the amount of the award.

B. Attorney fee claims under R.S. 23:1141 for allowable portions of periodic payments of indemnity benefits recovered by claimants shall only be authorized after approval by the presiding judge upon filing of a motion for such fees filed by the claimant's attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1870 (October 1999).

§6505. Reserved.

Subchapter B. Offsets

§6507. Offsets

A. A request for offsets pursuant to R.S. 23:1225 made in connection with a disputed claim shall be made by filing Form LDOL-WC-1008 or by responsive pleading. An order shall be issued recognizing the entitlement to the offset for social security benefits from the date of judicial demand, and setting the amount of the offset after a determination of the character of the disability, the right to the offset, and calculation of the offset. A contradictory hearing may be set by the judge for this determination. Notice shall be provided to the claimant or his representative prior to issuance of the order. The order shall be served by certified mail upon all parties and the Social Security Administration. Such offsets may be taken upon receipt of proof of service of the order upon the Social Security Administration by the Office of Workers' Compensation Administration.

B. A request for offsets pursuant to R.S. 23:1225 made in connection with a claim not in dispute may be made by motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting an offset may be granted ex parte from date of filing. Such offsets shall not be taken unless the social security offset has been removed. No fee shall be charged in connection with a request made under this Subsection.

C. A unilateral reverse offset shall not be recognized by this office after March 20, 1993. A unilateral offset under any other Subsection of R.S. 23:1225 shall not be recognized by this office after January 1, 2000.

D. Information concerning receipt of social security benefits and the amounts thereof shall be obtained on Form LDOL-WC-1004, which shall be properly executed by an official designated by the Social Security Administration.

E. An official of the Social Security Administration shall not be subject to subpoena under this rule unless for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1871 (October 1999).

Subchapter C. Financial and Compliance Hearings

§6509. Financial and Compliance Hearings

A. An informal mediation conference shall be held within fifteen days of the filing of an appeal for financial and compliance matters.

B. If a resolution is not reached, a hearing on the appeal held pursuant to R.S. 23:1171 shall be held within 15 days of the conclusion of the informal mediation conference, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

C. Suspensive appeals of a determination of the financial and compliance officer will not be entertained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1871 (October 1999).

Chapter 66. Miscellaneous

Subchapter A. General

§6601. Other Applicable Rules

Unless otherwise provided for in these rules, any practice or procedure not in conflict with either the Workers' Compensation Act or these rules will be guided by practice and procedure provided for in the Louisiana Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1871 (October 1999).

§6603. Local Rules Prohibited

Local rules by any district office of the Office of Workers' Compensation Administration are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1871 (October 1999).

§6605. Fees

A. The clerks for the Office of Workers' Compensation Administration shall be entitled to demand and receive the following fees in a Workers' Compensation dispute:

1. Filing of 1008 or 1011 - \$30.00
2. Service of Process on Secretary of State - \$25.00
3. Copies of any paper in any suit record - \$0.25 per page
4. For each certification - \$1.00
5. Filing by facsimile transmission - \$5.00
6. Cost of preparation of record for appeal - available upon request from the district offices.
7. Cost of service by certified mail - available upon request from the district offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1871 (October 1999).

§6607. Posting of Docket

The clerk of the district office shall keep a docket upon which shall be entered all matters set for mediation, hearing, or trial. The docket shall be posted in a conspicuous location of the district office on the first work day of each week for that week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1871 (October 1999).

Subchapter B. Costs

§6609. General

A. The awarding of costs shall be governed by R.S. 23:1317(B) and Code of Civil Procedure Article 1920.

B. The costs of preparing an appeal shall be initially sustained by the appellant. In the case of pauper, the costs incurred by the Office of Workers' Compensation Administration in preparing the transcript shall be sustained by the Office of Workers' Compensation Administration only where the pauper is the losing party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1872 (October 1999).

§6611. Medical Costs

The determination of all medical reimbursement shall be based upon the reimbursement schedule in effect at the time the services are rendered. Every attempt to resolve disputes over medical reimbursement shall be made by applying said schedule(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1872 (October 1999).

Subchapter C. Waiver of Costs for Indigent Party

§6613. Waiver of Costs for Indigent Party

Waiver of costs for indigent party shall be governed by Code of Civil Procedure Articles 5181, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:282 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1872 (October 1999).

§6615. Restrictions

Repealed.

§6617. Affidavits of Poverty; Documentation; Order

Repealed.

§6619. Traverse of Affidavits of Poverty

Repealed.

§6621. Account and Payment of Costs

Repealed.

§6623. Compromise; Dismissal of Proceedings Prior to Judgement

Repealed.

§6625. Unsuccessful Party Condemned to Pay Costs

Repealed.

Subchapter D. Severability of Sections

§6627. General

If any provision or item of a section, or the application thereof, is held to be invalid, such invalidity shall not affect other provisions, items, or applications of the section which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:283 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1872 (October 1999).

Subchapter E. Forms

§6637. Motion for Recognition of Right to Offset; Form LDOL-WC-1005A

Attached hereto and designated as "Attachment Number 5".

STATE OF LOUISIANA
DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION

_____ * SS#: _____
VERSUS * DOCKET NO: _____
_____ * DISTRICT: _____

MOTION FOR RECOGNITION OF RIGHT TO SOCIAL SECURITY OFFSET

NOW INTO COURT as undersigned comes _____, employer/insurer in the referenced case, and requests the Workers' Compensation Judge to enter an order recognizing its right to take the reverse offset, since the claimant in this matter is receiving permanent total disability benefits under the Louisiana Workers' Compensation Act in addition to benefits under 42 U.S.C. Chapter 7, Subchapter II, entitled Federal Old Age, Survivors, and Disability Insurance Benefits.
SIGNED this the _____ day of _____, 19__.

(PRINT NAME)

Agent for _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:293 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1872 (October 1999).

§6639. Order Recognizing Right to Offset; Form LDOL-WC-1005B

Attached hereto and designated as "Attachment Number 6".

STATE OF LOUISIANA
DEPARTMENT OF LABOR OFFICE OF WORKERS' COMPENSATION

_____ * SS#: _____
VERSUS * DOCKET NO: _____
_____ * DISTRICT: _____
ORDER RECOGNIZING RIGHT TO SOCIAL SECURITY OFFSET

This matter is before the Workers' Compensation Judge on the motion of the employer/insurer for recognition of its right to claim the social security reverse offset in this case. The Workers' Compensation Judge finds that the claimant is receiving permanent total disability benefits under the provisions of the Louisiana Workers' Compensation Act in addition to benefits under 42 U.S.C. Chapter 7, Subchapter II, entitled Federal Old Age, Survivors, and Disability Insurance Benefits. The Workers' Compensation Judge further finds the under that provisions of L.R.S. 23:1225(A) the employer/insurer has claimed and is entitled to a reduction in the Workers' Compensation benefits paid to claimant in the amount of _____.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the employer/insurer is hereby allowed to offset the Workers' Compensation benefits paid to claimant in the amount of _____, beginning on _____, 19____, the date of employer/insurer's judicial demand.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Social Security Administration reverse its social security offset effective _____, 19____, the date of employer/insurer's judicial demand.

READ, RENDERED AND SIGNED this _____ the day of _____, 19__ at _____ Parish, Louisiana.

WORKERS' COMPENSATION JUDGE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:293 (February 1999), amended by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1872 (October 1999).

§6662. Attorney Fee Notice of Lien; Form LDOL-WC-1027

Attached hereto and designated as "Attachment Number 16".

DOCKET NO.: _____

CLAIMANT: _____

REPRESENTATIVES: _____

EMPLOYER: _____

NOTICE OF LIEN

Pursuant to Section 5547(B) of the hearing rules of the Office of Workers' Compensation Administration, _____ serves notice upon this Honorable Court and all parties to the above entitled claim that (he/she/it) represented the claimant from (date) to (date) and hereby asserts a lien on the proceeds of the claim for unpaid attorney fees.

Respectfully submitted,

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1873 (October 1999).

§6663. Scheduling Order; Form LDOL-WC-1028

Attached hereto and designated as "Attachment Number 17".

CLAIMANT DOCKET NUMBER:
VERSUS OFFICE OF WORKERS' COMPENSATION
EMPLOYER DISTRICT - _____
STATE OF LOUISIANA
SCHEDULING ORDER

On _____, a scheduling conference was held pursuant to Section 6001 of the hearing rules of the Office of Workers' Compensation Administration.

PRESENT:

_____ representing _____
_____ representing _____
_____ representing _____

IT IS ORDERED:

1. Amendment to pleadings:
2. Discovery anticipated by the parties:
3. All amendments to pleadings are to be filed by _____.
4. The cut-off date for discovery is _____.
5. All pre-trial motions are to be filed by _____.
6. The pre-trial conference is scheduled on _____ at ____ M.

7. The pre-trial mediation will be held on _____.
8. Trial is scheduled for _____.

IT IS FURTHER ORDERED that a pre-trial statement shall be filed ten days prior to the pre-trial conference. The attorneys who will try the case shall participate in the pre-trial conference unless prior to the conference the Judge grants permission for other representatives to attend. Whoever participates in the conference must be familiar with the case and have authority to discuss the possibilities of settlement and stipulations.

_____, LOUISIANA, THIS ____ DAY OF _____, 199__

Judge
Office of Workers' Compensation

District _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:1873 (October 1999).

Garey Forster
Secretary of Labor

9910#047

RULE

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation has amended the established fees.

Title 43

NATURAL RESOURCES

**Part XIX. Office of Conservation - General Operations
Subpart 2. Statewide Order No. 29-R-99/00
Chapter 7. Fees**

§701. Definitions

Annual Inspection Fee—repealed.

[See Prior Text *Application Fee-Application to Process Form R-4*]

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 7.

Capable Gas—natural and casinghead gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue and Taxation.

Class I Well—a Class I injection well used to inject hazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 or 29-N-2.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on permitted Class I wells in an amount not to exceed \$336,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production (Status 63,67), for annular disposal wells (Status 64), for enhanced recovery of oil or natural gas (Status 41, 42, 43), and for storage of hydrocarbons which are liquid at standard temperature and pressure (Status 44, 45). For purposes of administering the exemption provided in LSA-R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class II Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on non-exempted Class II wells in an amount not to exceed \$493,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000.

[See Prior Text *Emergency Clearance*]

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity between the producing wells. The tiered system shall be established annually by rule on annual volumes of capable oil and capable gas production in an amount not to exceed \$1,918,600 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3 1/2% annually for Fiscal Years 1998-1999 and 1999-2000. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

[See Prior Text *Production Well-Type B Facility*]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:758 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999).

§703. Fee Schedule for Fiscal Year 1999-00

A. Application Fees

Application for Unit Determination	\$210
Application for Substitute Unit Well	\$210
Application for Public Hearing	\$630
Application for Multiple Completion	\$105
Application to Commingle	\$210
Application for Automatic Custody Transfer	\$210
Application for Noncommercial Injection Well	\$210
Application for Commercial Class I Injection Well	\$1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$525
Application for Commercial Class II Injection Well	\$525
Application for Commercial Class II Injection Well (Additional Wells)	\$262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$525
Application for Permit to Drill - Minerals: 10,001' +	\$1,050
Application to Amend Permit to Drill - Minerals	\$105
Application to Amend Permit to Drill - Injection or Other	\$105
Application for Surface Mining Exploration Permit	\$52
Application for Surface Mining Development	\$78

Operations Permit	
Application for Surface Mining Permit	\$1,837
Application to Process Form R-4	\$26
Application to Reinstate Suspended Form R-4	\$52
Application for Emergency Clearance Form R-4	\$52

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of record of permitted Class I wells are required to pay \$8,280 per well.

4. Operators of record of nonexempt permitted Class II wells are required to pay \$425 per well.

C. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

	Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0	10
Tier 2	1 - 5,000	50
Tier 3	5,001 - 15,000	150
Tier 4	15,001 - 30,000	250
Tier 5	30,001 - 60,000	400
Tier 6	60,001 - 110,000	550
Tier 7	110,001 - 9,999,999	675

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:758 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999).

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including LSA- R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-99/00, and if any such individual fee is held to be unacceptable, pursuant to LSA-R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-99/00) supercedes Statewide Order No. 29-R-98/99.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999).

Philip N. Asprodites
Commissioner of Conservation

9910#024

RULE

Department of Public Safety and Corrections Corrections Services

Forfeiture of Good Time; Penalty Schedule (LAC 22:I.333 and 359)

In accordance with the Administrative Procedure Act LSA-R.S. 49:953(B) and in order to implement LSA-R.S. 15:571.4, the Department of Public Safety and Corrections, Corrections Services hereby repeals and promulgates LAC 22:I.333 regarding forfeiture of good time for escape or battery of an employee of the Department of Public Safety and Corrections and amends LAC 22:I.359 regarding the penalty schedule for custody change from minimum or medium custody to maximum custody status.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§333. Forfeiture of Good Time for Escape or Battery on an Employee of the Department

A. Purpose. To provide for rules related to the forfeiture of good time from inmates who escape or commit battery on an employee of the Department.

B. Applicability. Assistant Secretary, Office of Adult Services, all Wardens of adult institutions, Directors of Community Rehabilitation Centers and local detention facilities.

C. Definitions

Aggravated Escape—The intentional, unauthorized departure under circumstances wherein human life was endangered of an inmate from the grounds of an institution, a designated area or place within an institution, the custody of Corrections' personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time. For the purpose of this regulation, the commission of a crime while on escape constitutes aggravated escape.

Battery of an Employee—Battery of an employee is a battery committed without the consent of the victim when the inmate has reasonable grounds to believe the victim is an employee acting in the performance of his duties. This

includes the use of force or violence upon the person of an employee by throwing feces, urine, blood, saliva, or any form of human waste by an inmate.

Simple Escape—The intentional, unauthorized departure under circumstances wherein human life was not endangered of an inmate from the grounds of an institution, a designated area or place within an institution, the custody of Corrections' personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time.

D. Policy. It is policy of the Secretary that procedures be established for the forfeiture of earned good time from inmates who escape or commit battery on an employee as set forth in LSA-R.S. 15:571.4(B) and (C). Forfeiture of good time for inmates who escape after August 30, 1986, or commit battery on an employee is governed by this regulation. Forfeiture of good time for escape prior to August 30, 1986, is computed in accordance with Department Regulation No. B-04-001, Section 9.G.

E. Procedures

1. Notification. An inmate charged with escape or battery on an employee for which the loss of good time in excess of 30 days is contemplated, shall be given written notification of the forfeiture of good time using the attached "Forfeiture of Good Time" memorandum.

2. Request for a "Forfeiture of Good Time" Hearing. The inmate must, within 15 days of receiving the notification, submit to the Warden a written request for a "Forfeiture of Good Time" hearing. This hearing may be conducted by a Disciplinary Board and would generally follow the disciplinary hearing at which guilt or innocence for the offense itself is established and normal disciplinary penalties assessed.

a. If the inmate is found "not guilty" during the normal disciplinary hearing, the "Forfeiture of Good Time" hearing would not be held.

b. If the request is not made in a timely manner, it will be deemed that the inmate waives his right to a "Forfeiture of Good Time" hearing. In such cases, the institution may impose the maximum loss of good time without additional proceedings.

c. If the inmate requests a "Forfeiture of Good Time" hearing, then such a separate and distinct hearing will be conducted to make a determination to either affirm, modify or reject the:

i. forfeiture of up to all good time earned on that portion of his sentence served prior to escape;

ii. forfeiture of all good time up to a maximum of 180 days on that portion of his sentence served prior to committing the battery.

F. Forfeiture of Good Time Form

MEMORANDUM

DATE:

TO:

RE: Forfeiture of Good Time

In accordance with Department Regulation No. B-04-005 based on La. R.S. 15:571.4(B) and (C):

Any inmate who escapes may forfeit all good time earned on that portion of his sentence served prior to the escape.

Any inmate who commits a battery on an employee of the Department may forfeit all good time up to a maximum of 180 days on that portion of his sentence served prior to committing the battery.

You have been provided a copy of the rule violation report charging you with escape or battery on an employee which contains a description of the evidence against you.

You are hereby advised of your right to request a "Forfeiture of Good Time" hearing before the Disciplinary Board within 15 days of this date. You also have the right to be represented by counsel, to be present at the hearing, and to present exculpatory evidence or evidence in mitigation. Upon a finding of guilt after normal disciplinary proceedings, the Disciplinary Board shall make a determination to either affirm, modify, or reject the recommended forfeiture of good time in the "Forfeiture of Good Time" hearing.

Your request for hearing must be submitted to the Warden, in writing, and must contain the following:

A statement setting out the facts upon which you are relying;

A list of witnesses with the reason for the witnesses and the expected testimony;

A list of documents with the reason for each document and the expected information;

A statement as to whether you are challenging the charge or only attempting to mitigate the action, or both;

A statement as to whether you will represent yourself, retain counsel or if you wish to have an inmate counsel substitute.

The contents of your request shall be binding and shall not be expanded unless good cause is shown why it should be expanded. If you fail to make a timely request, it will be deemed that you waive your right to a hearing on the issue of guilt and the action to be taken.

WITNESS Inmate Signature
WITNESS DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1875 (October 1999).

§359. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Board)

A. - A.2.i. ...

j. Custody change from minimum to medium custody status (imposition of this penalty may include transfer to another institution. Any job change resulting from imposition of this penalty is not a separate penalty for purposes of this section, unless expressly indicated as a penalty).

k. Custody change from minimum or medium custody status to maximum custody status (working cell block or disciplinary detention/extended lockdown). (Imposition of this penalty may include transfer to another institution. Any job change resulting from imposition of this penalty is not a separate penalty for purposes of this section, unless expressly indicated as a penalty).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17:670 (July 1991), amended LR 25:1876 (October 1999).

Richard L. Stalder
Secretary

9910#072

RULE

**Office 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, 2715, 2716, 2717, 2719, 2721, 2723, 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.

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 25:1876 (October 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 expended 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.

6. All records required by this chapter shall be retained within the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, 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 25:1877 (October 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 25:1878 (October 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 the parish in which the licensee was approved to conduct gaming activity. In the event of a change of ownership, records of prior owners shall be retained in the parish in which the licensee was approved to conduct gaming activity for a period of 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 25:1878 (October 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 25:1878 (October 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 25:1878 (October 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 25:1879 (October 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 the 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 prior to 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. a listing of all available gaming computer reports and the purpose of each report;
7. an approved alternate drop transportation route in the event that a licensee cannot utilize its primary route; and
8. 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 listing of all vendors who have provided goods and/or services to the licensee. This list shall include vendor name, address, type of goods/services provided, permit number (if applicable) and federal tax identification number and aggregated cost from the previous four quarters to present. This report shall be received by the Division not later than the last day of the month following the quarter being reported. In addition, each licensee shall submit monthly aged invoices payable utilizing standard 30-60-90 day period. This monthly report shall be received by the Division not later than thirty (30) days following the end of the month 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 25:1879 (October 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 25:1881 (October 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 (pit supervisor), 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. security officer 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. When applicable, the first and second copies shall have *Void* written across the face and be accompanied by a miscellaneous notification (manual slips only) as to why the third copy cannot be voided. 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.

6. Processed slips shall be collected by accounting/auditing directly from the pit or cage.

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 (pit supervisor), 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 an individual from the security department;

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. Upon acknowledgment, the cage printer shall print a one-part Acknowledgment Slip which shall contain the following:

- a. document number;
- b. correct date and time;
- c. game type;
- d. table number;
- e. shift;
- f. total amount of fill; and
- g. location for cage cashier's signature;

6. finalized by the cage cashier who shall complete the transaction via computer entry, sign the Acknowledgment Slip once printed, and attach the fill Acknowledgment Slip to the cage copy of the fill slip.

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 (pit supervisor), 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 an individual from the security department;

5. acknowledged by the pit clerk or cage personnel via computer upon completion of the credit. Upon acknowledgment, the cage printer shall print a one-part Acknowledgment Slip which shall contain the following:

- a. document number;
- b. correct date and time;
- c. game type;
- d. table number;
- e. shift;
- f. total amount of credit; and
- g. location for cage cashier's signature;

6. finalized by the pit clerk or cage cashier who shall complete the transaction via computer entry, sign the Acknowledgment Slip once printed, and attach the credit Acknowledgment Slip to the cage copy of the credit slip.

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.

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. by 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. Notification shall include date, time, table number, reason, printed names, employee numbers, titles, and signatures of each employee involved in the emergency drop. 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. The transportation route from the gaming area to the count room shall be submitted to the Division prior to implementation.

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 employee shall monitor the count process at all times. This employee shall record any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if visibility of hands or other activity is 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 Master Gaming Report attesting to the accuracy

of table games drop after the Master Gaming Report 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 Master Gaming Report, 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 rack 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 trained and certified by the manufacturer or its representative.

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 on a list (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 shift. 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 on a log.

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. All information pertaining to a patron (e.g., Patron Activity Inquiry) shall be used for information purposes only. A user cannot enter or change any of this information.

c. The delete option within an individual program shall be secured, such that only authorized users can execute it, i.e., delete a record.

d. The licensee shall change passwords periodically, as specified in the licensee's internal controls, to ensure security against false entry by unauthorized personnel.

e. The *secured copies* and the necessary documents shall be retained for five (5) years.

f. 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 25:1882 (October 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 25:1887 (October 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 table games and slot departments;

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.

* * *

f. The licensee shall maintain a minimum level of supervision over the poker room tables. There shall be at least one supervisor present per two tables open or part thereof. Surveillance shall be required to continuously monitor and 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 25:1887 (October 1999).

§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 occurred;

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 during which the jackpot occurred;

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, or if the jackpot is a manual or an override.

2. Jackpot slips that are voided shall be clearly marked Void across the face of all copies. When applicable, the first and second copies shall have Void written across the face. Voided jackpot slips which are manual slips shall be accompanied by a miscellaneous notification as to why the third copy cannot be voided. 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.

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 photo 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 over \$5,000, 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 over \$10,000, 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 slot 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.

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. When applicable, the first and second copies shall have *Void* written across the face. Voided slot fill slips which are manual slips shall be accompanied by a miscellaneous notification as to why the third copy cannot be voided. 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. Notification shall include date, time, machine number, reason, printed names, employee numbers, titles, and signatures of each employee involved in the emergency drop. Prior to opening any slot machine, emptying or removing any slot drop

bucket, the drop team shall notify security and surveillance 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. The drop team shall not deviate from the submitted route without prior notification to the Division.

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 affixed 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 employee shall monitor the count process at all times. 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 visibility of the count team's hands or other activity is 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. Empty drop buckets shall be displayed to another member of the count team or to surveillance.

d. 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.

e. 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.

f. At least three employees who participate in the weigh/count and/or wrap process shall sign the slot count document.

g. 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.

h. 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.

i. 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.

j. 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.

k. The count team shall compare the weigh/count to the wrap count daily. Variances of one percent (1%) 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.

l. 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.

m. 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.

n. 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.

o. 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.

p. 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 pre-numbered wire seal to preserve the integrity of the device. The manufacturer shall calibrate the weigh scale at a minimum of once per quarter. 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 computerized, 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. on a quarterly basis, record the meters that indicate the total coins played and total number of plays;

b. on an annual basis, calculate the theoretical hold percentage based on the distribution of plays by wager type;

c. 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. The drop team shall not deviate from the submitted route without prior notification to the Division.

5. Drop team shall collect each currency acceptor drop box and ensure that the correct tag or number is affixed 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. The currency acceptor count process shall be monitored at all times by at least one surveillance employee and shall be videotaped by surveillance. This employee shall record any exceptions or variations to established procedures observed during the count. If at any time visibility of count team's hands or other activity is obstructed, surveillance shall immediately notify count room employees.

11. The currency acceptor count shall be performed by a minimum of three employees consisting of a recorder, counter and verifier.

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team shall not be the same three employees more than four days per week.

13. The currency acceptor count team shall be independent of transactions being reviewed and counted, and the subsequent accountability of currency drop proceeds.

14. Prior to each count, the count team shall verify the accuracy of the currency counter by performing a test count of at least one drop box. 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, date, initial, 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 shift. 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 on a log.

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;

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) 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 one percent (1%) 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;

c. Variance Reports listing differences between manual soft meter readings and system-generated meter readings. Variances should be calculated by machine, by denomination and in total. Totals must be reported for the Coin-in, Coin-out, Coin-Drop and Jackpot meters. All significant (greater than 1%) variances shall be communicated to the slot department for investigation. The investigation shall be documented and retained for five (5) years. Variance reports shall include, at a minimum, the following:

i. the date of the meter reading;

ii. the date the report was filed;

iii. the machine number;

iv. items of comparison;

v. the amount of the variance, by denomination;

vi. an indication as to the cause of the variance; and

vii. the signature and permit number of the preparer.

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 cabinet 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 a log 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. The log 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 both departments.

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 (15th) of every month for the previous month's jackpots;
- e. detailed jackpot payout procedures for all types of jackpots;

f. service and maintenance parameters as set forth in contractual agreements between the licensee and the multi-link vendor.

W. Training

1. All personnel responsible for slot machine operation and related computer functions shall be adequately trained by the manufacturer or its representative before they shall be allowed to perform maintenance or computerized functions.

2. The training shall be documented by requiring personnel to sign a roster provided by the manufacturer or its representative 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 its 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.

5. The licensee shall secure a minimum of one training session every six (6) months for each employee.

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 25:1887 (October 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, 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 25:1895 (October 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 25:1896 (October 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. All variances, if any, shall be investigated and the results maintained for five (5) years.

C. ...

D. The cage, 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 vaults shall be equipped with an alarm mechanism that alerts either security or surveillance any time the vault door is opened. This alarm shall be approved by the Division.

F. All net changes in outstanding casino receivables shall be summarized on a cage accountability form or similar document on a daily basis.

G. Such information shall be summarized and posted to the accounting records at least monthly.

H. All cage paperwork shall be transported to accounting by an employee independent of the cage.

I. All cashier tips shall be placed in a transparent locked box located inside the cage and shall not be commingled with cage inventory.

J. A licensee shall be permitted to issue credit in its gaming operation.

K. 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.

L. Proper authorization of credit extension in excess of the previously established limit shall be documented.

M. 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, and record a bank check guarantee card number or credit card number or document one of the credit checks set forth in Paragraphs 1-6.

N. 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 M.

O. 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.

P. 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.

Q. 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.

R. 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.

S. The original marker shall contain at least the following information:

1. patron's name and signature;
2. preprinted number;
3. date of issuance;
4. amount of credit issued; and

5. signature or initials of the individual approving the credit extension.

T. 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 extending the credit, unless this information is included on another document verifying the issued marker.

U. 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.

V. 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.

W. 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.

X. 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.

Y. 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.

Z. All payments received on outstanding credit instruments shall be permanently recorded on the licensee's records.

AA. 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.

BB. 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;
2. record a social security number on all check transactions including third party checks, and cashier's checks.

CC. 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.

DD. The routing procedures for payments by mail require that they shall be received by a department independent of credit instrument custody and collection.

EE. 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.

FF. 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.

GG. 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.

HH. 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.

II. All extensions of pit credit transferred to the cage and subsequent payments shall be documented on a credit instrument control form.

JJ. Records of all correspondence, transfers to and from outside agencies, and other documents related to issued credit instruments shall be maintained.

KK. 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.

LL. 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.

MM. 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.

NN. The trial balance of casino accounts receivable shall be reconciled to the general ledger at least quarterly.

OO. 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 25:1896 (October 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 25:1898 (October 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 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 25:1898 (October 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 25:1899 (October 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 25:1899 (October 1999).

§2737. Reserved.

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 25:1899 (October 1999).

§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 25:1899 (October 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 25:1900 (October 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 25:1900 (October 1999).

§2744. Reserved.

§2745. Reserved.

§2747. Reserved.

Hillary J. Crain
Chairman

9909#012

RULE

**Department of of Public Safety and Corrections
Gaming Control Board**

Landbased Casino Gaming
(LAC 42:IX. Chapters 19-45)

The Gaming Control Board hereby adopts LAC 42:IX.1901 through 4519 and repeals LAC 42:IX.2101 through 4523 originally adopted by the Louisiana Economic Development and Gaming Corporation (*Morning Advocate*, March 14, 1995).

Title 42

LOUISIANA GAMING

Part IX. Landbased Casino Gaming

Chapter 19. General Provisions

§1901. Policy

A. It is the declared policy of the Louisiana Gaming Control Board that Casino Gaming in Louisiana be strictly regulated and controlled through Administrative Rules and the Casino Operating Contract to protect the public morals, good order and welfare of the inhabitants of the State of Louisiana and to develop the economy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1900 (October 1999).

§1903. Regulations

A. Nothing contained in these Regulations shall be so construed as to conflict with any provision of the Act or other applicable state or federal law.

B. If any provision of these Regulations shall be held invalid, it shall not be construed to invalidate any other provisions of these Regulations or the provisions of the Act.

C. These Regulations in their entirety are intended to be a detailed explanation or implementation of the Casino Operating Contract between the Louisiana Gaming Control Board and the Casino Operator. The Regulations are intended to be read in pari materia with the Casino Operating Contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1900 (October 1999).

§1905. General Authority of the Board

A. The Board shall have the authority to call forth any person who, in the Board's opinion, exercises influence over the Casino, Casino Operator, Casino Manager or a Permittee, and such person shall be subject to all suitability requirements. In the event a Person is required by the Board to obtain a License or Permit, and such license or permit is denied, then the Casino Operator and/or Permittee shall cease connection with such Person(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1900 (October 1999).

§1907. Definitions, Words and Terms, Captions, Gender References

A. The provisions of the Act relating to definitions, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these Regulations, except as otherwise specifically declared or clearly apparent from the context of these Regulations. Any word or term not defined in these Regulations shall have the meaning ascribed to it in the Act. Should any word or term not be defined in these regulations or in the Act, those words and terms shall be construed in accordance with their plain and ordinary meaning. The captions appearing at the beginning of each regulatory section are for convenience and organization and in no way define, limit or describe the scope, intent or effect of the Regulation. Masculine or feminine pronouns or use of neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice versa, in any place or places in these Regulations where the context requires such substitution. The following terms shall have the meaning ascribed to each:

Act—the Louisiana Economic Development and Gaming Corporation Act (La. R.S. 27:201 et seq.) and all other relevant provisions of La. R.S. 27:1 et seq., as it may be amended from time to time.

Administrative Approval—the authority conferred upon the Division by any Regulation or by a condition imposed on a license or permit to grant or deny, in its sole discretion, a request for approval of a proposed action or transaction.

Administrative Decision—the final action, decision, order or disposition by the Division directed toward a request for Administrative Approval.

Affiliate—

a. a Person who directly, or indirectly, Controls or is Controlled by, or is under common Control with the Person specified. Whenever the term *affiliate* is used with respect to the Casino Operator, the term also means and includes any Person holding a direct or indirect shareholder interest that gives such Person the ability to Control the Casino Operator or any Person owning a 5% or more direct Interest in the Casino Operator.

i. For purposes of calculating the percentage of ownership Interest, the following shall be attributed to such Person, the ownership, income, or profit interest held by a trustee of a trust of which a Person is a beneficiary.

ii. The Interest held by a member of such Person's immediate family. Immediate family means a Person's spouse, children, parents, brothers, sisters, nieces, nephews and cousins to the first degree.

b. notwithstanding the foregoing, a shareholder owning, directly or indirectly, 5% or more ownership, income or profit interest in a corporation, the shares of which are widely held and publicly traded shall not be an Affiliate of a Person, unless the Gaming Board determines the shareholder controls that Person or an intermediary, effectively, Controls, or is Controlled by, or is under common Control with, a specified Person.

Agent—any commissioned Louisiana State Police Trooper or designated employee of the Louisiana State Police, Gaming Enforcement Section.

Annual Audit—means the audit performed each Fiscal Year by the Independent CPA of the Fiscal Year Financial Statements of the Casino Operator. The Annual Audit shall be performed in accordance with the requirements of Section 12.5 of the Casino Operating Contract - *Review and Audit*.

Applicant—any person who has submitted an Application or bid to the Board or Division for a License, Permit, registration, contract or other finding of suitability, or renewal thereof.

Applicant Records—those records which contain information and data pertaining to an Applicant's criminal Record, antecedents and background, and the Applicant's financial Records, furnished to, or obtained by, the Division from any source incidental to an investigation for licensing, findings of suitability, registration, the continuing obligation to maintain suitability or other affirmative Approval.

Application—the forms and schedules prescribed by the Division upon which an Applicant seeks a License, Permit, registration, contract or other finding of suitability, or the renewal thereof. Application also includes information, disclosure statements, financial statements and all documents incorporated in, attached to, or submitted with the application form specifically including personal history questionnaires submitted by an Applicant.

Approve, Approves, Approved, Approval—means when used with respect to the Board that the Board or its agents shall have the right, prior to an action, to Approve, confirm, uphold or grant permission with respect to the subject matter thereof. When the term *approve, approves, approved* or *approval* is used without an initial capital A, it shall mean the Gaming Board has contractual approval rights only. When the term *Approve, Approves, Approved* or *Approval* is used with an initial capital A it shall mean the Gaming Board has regulatory approval rights.

Architectural Plans and Specifications or Architectural Plans or Plans or Specifications—all of the Plans, drawings, and Specifications for the construction, furnishing, and equipping of the Casino, including, but not limited to, detailed Specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the Casino, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers. *Architectural Plans and Specifications* does not include Furniture, Fixture and Equipment, as defined in this Chapter.

Associated Equipment—any Gaming Equipment which does not affect the outcome of the Game, except as otherwise provided in these Regulations.

Background Investigation—all efforts, whether prior to or subsequent to the filing of an Application, designed to

discover information about an Applicant, Casino Operator, Affiliate, Casino Manager, Licensee, Permittee, registrant, or other Person required to be found suitable and includes without time limitations, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process. Examples of Background Investigation include, but are not limited to; measures taken in connection with exploring information on Applicants, procedures undertaken with respect to investigatory hearings, except for matters specifically disclosed in any hearing open to the public and orders, responses and other documents relating thereto.

Board—the Louisiana Gaming Control Board.

Books and Records—means all Financial Statements, revenue, expense and other accounting or financial documents or Records, including general ledgers, accounts receivable, accounts payable, invoices, payroll records, ownership records, expense records, income records and other documents or records required by the Internal Control System (including detailed Records by Game, Drop and shift) and all other documents or Records maintained by the Casino Operator or the Casino Manager whether in print, electronic, magnetic, optical, digital or other media form relating to or concerning the Casino.

Candidate—any Person whom the Division seeks to place on the Exclusion List pursuant to these Regulations.

Casino—the entirety of the building and improvements including the Furniture, Fixture, and Equipment, the operating equipment and operating supplies and all other improvements located at the Rivergate site in the Parish of Orleans.

Casino Act—(see Act).

Casino Gaming Day—means the twenty-four (24) hour period commencing at 6:00 a.m. Central Standard Time or Central Daylight Savings Time when in effect in Louisiana, or such other time periods selected by the casino operator and Approved by the Board and Division.

Casino Gaming Operations—any Gaming Operations offered or conducted at or in the Official Gaming establishment.

Casino Manager—a Person with whom the Casino Operator contracts to provide all or substantially all of the services necessary for the day-to-day management and operation of the Official Gaming Establishment or Casino, pursuant to the Casino Operating Contract and these Regulations, who or which has been found suitable by the Board.

Casino Operating Contract—a contract let or bid by the Board, in accordance with the provisions of the Act, authorizing a Casino Operator to conduct Casino Gaming Operations at the Official Gaming Establishment for the benefit of the State and Casino Gaming Operator.

Casino Operator—any Person who enters into a contract with the Board requiring that Person to conduct Casino Gaming Operations according to the provisions of the Act and these Regulations.

Casino Surveillance—the observation of Gaming and Gaming related Activities in the Casino.

Certification Fees—the fees charged by the Division incidental to the certification of documents.

Certified Electronic Technician—qualified service personnel or a Gaming Employee trained by a Manufacturer, Supplier, or other qualified entity, or through training programs Approved by the Division, who are capable of performing any repairs, parts replacement, maintenance, and other matters relating to servicing of Gaming Devices and Gaming Equipment or the Surveillance System.

Chairman—the Chairman of the Louisiana Gaming Control Board.

Cheating Device—any tangible object, item, contrivance, part or device, including a computerized, electronic or mechanical device used, or attempted to be used, to alter the Randomness of any Game or any Gaming Device in the Casino; or to play any Game or Gaming Device without placing the required Wager in order for himself or another to Win, or attempt to Win, money or property or combination thereof, or reduce or attempt to reduce, or increase or attempt to increase, either a losing or Winning Wager; and shall include any device used by a Person to gain an unfair advantage.

Chip—a non-metal or partly metal representative of value, redeemable for cash, and issued or sold by the Casino Operator for use at the Casino.

Confidential Record—any paper, document or other Record or data reduced to a record which is not open to public inspection.

Confidential Source—a provider of information which is not a matter of general public knowledge or of Public Record as well as an information provider, revelation of whose identity would tend to compromise the flow of information from that particular provider or his class of providers. Examples of confidential sources include, but are not limited to; governmental agencies which provide tax records or related information; law enforcement, or criminal justice agencies, including cooperative governmental funded data bases, which provide criminal history and related data under information sharing or providing agreements or arrangements; private Persons or entities which provide information subject to the condition that the information or their identities be kept confidential; informants, whether volunteering information or responding to investigatory measures; and any other provider or originator of information which might be deemed to be subject to a recognized privacy or confidentiality interests or a privilege against disclosure (unless the privilege has been waived), or the public disclosure of which might tend to endanger or compromise the provider of information, or impede the future furnishing of similar information.

Control—means with respect to a Person, the ability, in the sole opinion and discretion of the Gaming Board, to exercise a significant influence over the activities of such Person. Nothing in this Section shall restrict the rights of the Gaming Board under La. R.S. 27:236(E).

Day—when not preceded by the words *Business* or *Casino Gaming* as used in these Regulations shall mean a calendar day.

Dedicated Camera—a video camera which is required by these Regulations to continuously record a specific activity.

Default Interest Rate—means a floating rate of interest at all times equal to the greater of:

a. the prime rate of Citibank, N.A. or its successor plus five percent (5%); or

b. fifteen percent (15%) per annum, whichever is greater, provided, however, that the Default Interest Rate shall not exceed the maximum interest rate allowed by applicable law.

Designated Gaming Area—those portions of the Casino in which Gaming Activities may be conducted. Such designated Gaming area shall not be less than 100,000 square feet of usable space.

Designated Representative—a Person designated by the Casino to oversee and assume responsibility for the operation of the Casino's Gaming business.

Disciplinary Action—any action undertaken by the Chairman which includes the suspension, revocation or refusal to renew any contract, other than the Casino Operating Contract, entered into or any License, Permit, finding of suitability or registration issued in accordance with the provisions of the Act and these Regulations.

Distributor—any Person who buys, Sells, leases, services, reconditions or repairs Slot Machines.

Division—the Landbased Casino Division of the Gaming Enforcement Section of the Office of State Police, Department of Public Safety and Corrections.

Drop—

a. for table Games, the total amount of money, Chips, and Tokens contained in the Drop boxes.

b. for Slot Machines, the total amount of money and Tokens removed from the Drop box bill validator acceptor, or for cashless Slot Machines, the amounts deducted from a player's slot account as a result of Slot Machine play.

Duplication Fees—a charge for duplicating documents for release to the requesting Person.

Economic Interest or Interest—any Interest in a Person, entity, contract or Permit whereby a Person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit. Economic Interest in the Casino Operator includes voting shares of stock or otherwise exercising Control of the day to day operations of the Casino through a management agreement or similar contract. Economic interest does not include a debt unless upon review of the instrument, contract or other evidence of indebtedness, the Board determines a finding of suitability is required based upon the economic relationship with the Casino Operator.

Electronic Fund Transfer—Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Electronic Gaming Device—any mechanical or electrical device or machine which upon payment of consideration is available to play or operate, operation of which, whether by reason of the skill of the operator, or application of the element of chance, or both, may deliver or entitle the Person playing or operating the machine to receive premiums, merchandise, tokens, redeemable Game credits or anything of value other than unredeemable free Games whether the payoff is made automatically from the machines or in any other manner.

Employee Permit or Gaming Employee Permit—The Permit of a Person employed in the operation or supervision of a Gaming Activity of the Casino and includes pit bosses (pit managers), floormen, boxmen, dealers or croupiers, device technicians, Designated Gaming Area security employees, count room personnel, cage personnel, Slot Machine and slot booth personnel, credit and collection personnel, Casino surveillance personnel, bartenders that are allowed to make change for Gaming and supervisory employees empowered to make discretionary decisions that regulate Gaming Activities, including shift bosses, credit executives, Casino cashier supervisors, Gaming managers and assistant managers, and any other individual, other than non-gaming equipment maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries, or other as determined by the Board, whose employment duties require or authorize access to Designated Gaming Areas.

Enforcement Action—Any action instituted by the Division upon the conclusion of an investigation into a violation of the Act or of the Regulations adopted pursuant to the Act, a violation of a condition, restriction or limitation placed on a License or Permit, a violation of the Casino's Rules of Play, or a violation of the Casino Operator's Internal Controls as Approved by the Division, to consider sanctions authorized by and adjudicated in accordance with the Act, including the suspension, revocation or conditioning of a License or Permit, or the assessment of a fine.

Excluded Person—any Person who has been placed on the Exclusion List by the Division and who has failed to timely request a hearing or who remains on the list after a final determination.

Exclusion List—a list or lists which contain identities of Persons who are excluded from any Licensed Gaming Operation pursuant to the Act.

FF&E (Furniture, Fixtures and Equipment)—any part of the Casino that may be installed or put into use as purchased from a Manufacturer, Supplier, or non-gaming Supplier, including but not limited to Gaming Devices, television cameras, television monitors, computer systems, computer programs, computers, computer printers, ready made furniture and fixtures, appliances, accessories, and all other similar kinds of equipment and furnishings for the conducting of Gaming Operations at the Casino.

Financial Records—those records which in the opinion of the Board, or Chairman, relate to the finances, earnings or revenue of an Applicant, Licensee, Permittee, registrant or other Person or transaction for which or for whom Approval or a finding of suitability has been requested or granted.

Financial Statements—those statements and the information contained therein which relate to the assets, expenses, owner's equity, finances, earnings, or revenue of an Applicant, Licensee, Permittee, registered company, or Person who provides such records as part of an Application or Division investigation.

Finder's Fee—

a. any compensation in money in excess of the sum of \$5,000 annually, or real or personal property valued in excess of the sum of \$5,000 annually, which is paid or transferred or agreed to be paid or transferred to any Person in consideration for the arranging or negotiation of an extension of credit to the Casino, a registered company, or Applicant for Licensing, Permitting or registration if the

proceeds of such extension of credit are intended to be used for any of the following purposes:

i. the acquisition of an Interest in the Casino, License, Licensed Gaming Operation or registered company;

ii. to finance the Gaming Operations of the Casino, License, Licensed Gaming Operation or registered company.

b. the term *finder's fees* shall not include:

i. compensation to the Person who extends the credit;

ii. normal and customary payments to employees of the Person to whom the credit was extended if the arranging or negotiation of credit is part of their normal duties;

iii. normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers and appraisers;

iv. underwriting discounts paid to a member of the National Association of Securities Dealers, Inc.;

v. normal and customary payments to a Person qualifying as a Suitable Lender, as defined by the Casino Operating Contract.

c. it is an unsuitable method of operation or practice for the Casino Operator, registered company or Applicant for Licensing, Permitting or registration to pay a Finder's Fee without the prior Approval of the Board. An Application for Approval of payment of a Finder's Fee shall make a full disclosure of all material facts. The Board may disapprove any such Application if the Person to whom the Finder's Fee is proposed to be paid does not demonstrate that he is suitable.

Fiscal Year—

a. (*Casino Operator*)—The period beginning April 1 and ending March 31 the following year. The *First Fiscal Year* shall be the period commencing on the Casino Opening Date and ending on the first March 31st to occur after the Casino Opening Date. The term *Full Fiscal Year* means any Fiscal Year containing not fewer than three hundred sixty-five (365) days. A Fiscal Year containing 366 three hundred sixty-six (366) days is a *Fiscal Leap Year*. Any partial Fiscal Year ending with the expiration of the Term but not ending due to a termination as a result of an Event of Default shall constitute the *Last Fiscal Year*.

b. (*State*)—The period beginning July 1 and ending June 30 the following year.

Funds—money or anything of value.

Game—any banking or percentage game located exclusively within an Official Gaming Establishment which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value. Game does not include lottery, bingo, charitable games, pull tabs, raffles, electronic video bingo, cable television bingo, dog race wagering, horse wagering, or any wagering on any type of sports event, inclusive but not limited to, football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event.

Gaming Activities or Gaming Operations—the offering or conducting of any Game or Gaming Device in the Casino.

Gaming Board's Controlled Space—the space in the Casino reserved exclusively for and accessible only by the Gaming Board, the State Police and their representatives for

the purposes of performing on-site regulatory, monitoring and surveillance functions of the Casino.

Gaming Device or Gaming Equipment—any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine, including an Electronic Gaming Device, or Slot Machine used directly or indirectly in connection with Gaming or any Game, which affects the result of a Wager by determining Win or loss. The term includes a system for processing information which can alter the normal criteria of random selection, which effects the operation of any Game, or which determines the outcome of a Game. The term does not include a system or device which affects a Game solely by stopping its operation so that the outcome remains undetermined.

Gaming Employee—any Person employed or working in any capacity at the Casino in the operation or supervision of a Game including: pit bosses (pit managers), floormen, boxmen, dealers or croupiers, device technicians, Designated Gaming Area security employees, count room personnel, cage personnel, Slot Machine and slot booth personnel, credit and collection personnel, Casino surveillance personnel, bartenders that are allowed to make change for Gaming and supervisory personnel empowered to make discretionary decisions that regulate Gaming Activities, including shift bosses, credit executives, Casino cashier supervisors, Gaming managers and assistant managers, and any other individual, other than non-gaming equipment maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries or other as determined by the Board, whose employment duties do not require or authorize access to Designated Gaming Areas.

Gaming Jurisdiction—any other jurisdiction wherein Gaming Activity is allowed pursuant to state or federal legislation and a tribal state compact and any foreign jurisdiction allowing Gaming Activities.

Gaming Supplies—all materials and supplies other than gaming Devices which the Board Approves to be used or expended in Gaming Operations or activities through the Regulations.

Gross Gaming Revenue—means the total receipts of the Casino Operator from Gaming Operations, including all cash, checks, property and credit extended to a Patron for purposes of Gaming less the total value of all:

a. amounts paid out as Winnings to Patrons; and

b. credit instruments or checks which are uncollected subject to an annual cap of uncollected credit instruments and checks of four percent (4%) of the total receipts of the Casino Operator from Gaming Operations, including all cash, checks, property and credit extended to a Patron for purposes of Gaming in a Fiscal Year. Winnings for purposes of the definition of Gross Gaming Revenue means the total amount delivered by a Gaming Device as Win to a Patron or the amount determined by the Approved table game odds as Win to a Patron, exclusive of any double jackpots, increased Payouts in addition to table game odds or other increased Payouts that result from promotional activities, unless Approved in advance by the Board.

Holding Company or Intermediary Company—a company that has the power or right to Control a company which holds or applies for a License or a Permit.

Inspection—periodic surveillance and observation by the Division of operations conducted by the Casino Operator or

Permittee, which surveillance and observation may or may not be made known to the Casino Operator or Permittee.

Internal Control System—internal procedures and administration and accounting controls designed by the Casino Operator and Approved by the Board and/or Division, for the purpose of exercising Control over the Gaming Operations and for complete and accurate calculation and reporting of financial data including the Louisiana Gross Gaming Revenue Share Payments.

Junket Representative—

a. any Person who contracts with the Casino Operator or their Affiliates to provide services consisting of arranging transportation to the Casino where the Person is to receive compensation based upon either:

- i. a percentage of win/drop of the Casino Patrons;
- ii. a percentage of the theoretical win/drop of the Casino Patrons; or

iii. any other method of compensation that is contingent on or related to the Gaming activity of Casino Patrons including, but not limited to, any *lump sum* or *flat rate* compensation.

b. the term *junket representative* shall not include:

i. the Casino Operator and Casino Manager and their employees or any licensed or approved Affiliate;

ii. a supplier of transportation or a travel agency, whose compensation is based solely upon the price of transportation arranged for by the agency; or

iii. a Person that is paid a diminimus fixed fee for each Casino Patron that the Person brings to the Casino provided that:

(a). the fixed fee does not exceed \$20.00 for each Casino Patron;

(b). no portion of the compensation paid is based upon the gaming activity of the Patron at the Casino; and

(c). the Patron complies with all of the vendor registration requirements for non-gaming vendors set forth in Section 2165 of these Regulations.

Key Gaming Employee—any individual who is employed in a managerial or supervisory capacity and who is empowered to make discretionary decisions that regulate gaming activities including, but not limited to, the general manager and assistant general manager of the Casino, director/manager of finance, accounting controller, director/manager of cage and/or credit operations, director/manager of casino operations, director/manager of table games, director/manager of slots, slot performance director/manager, casino shift directors/managers, director/manager of security, director/manager of surveillance, director/manager of management information systems, and such other positions which the Division or the Board shall later determine, based on detailed analysis of job descriptions as provided in the internal controls of the Casino Operator Approved by the Division. Only the individual head of each department/section shall be considered a key gaming employee, and no person shall commence work or perform any duties in any of the above positions without Approval of the Board. Additionally, no single key gaming employee other than the general manager or assistant general manager shall oversee more than one department except in an emergency situation as Approved by the Board. All other gaming employees, unless determined

otherwise by the Board, shall be classified as nonkey gaming employees.

License or Gaming License—authorization by the Board to conduct Gaming Activities in the Casino or on a riverboat pursuant to Title 27 of the Louisiana Revised Statutes, the Regulations and/or the Casino Operating Contract.

Licensee—a Person authorized by the Board to conduct Gaming Activities in the Casino or on a riverboat pursuant to Title 27 of the Louisiana Revised Statutes, the Regulations and/or the Casino Operating Contract.

Manufacturer—is any Person that manufactures, assembles, produces, or programs any Gaming Device or Gaming Supplies for sale, use or play in this state.

Manufacturer Permit—a Permit issued to any Person who manufactures, assembles, produces or programs any Gaming Devices or Gaming Supplies for sale, use or play in this state.

Motion Activated Dedicated Camera—a video camera which, upon its detection of activity or motion in a specific area, begins to record the activity or area.

Non-Gaming Employee—an employee of the Casino Operator or Casino Manager who is not employed in the supervision or operation or assisting in the operation of a Gaming Activity or performing in a Key Gaming Employee capacity.

Non-Gaming Supplier or Supplier of Goods or Services Other than Gaming Devices or Gaming Equipment—any Person who sells, leases or otherwise distributes, directly or indirectly, goods and/or services other than Gaming Devices and Gaming Equipment to the Casino.

Non-Gaming Supplier Permit—the required Permit for a Non-Gaming Supplier who, unless otherwise exempted, Sells, leases or otherwise distributes, directly or indirectly, goods and/or services to the Casino in excess of fifty thousand dollars (\$50,000.00) for any twelve month period.

Notice—a writing delivered by hand or mailed postage prepaid, by certified or registered mail, return receipt requested to a Person at his address.

Official Gaming Establishment—see Casino

Own—(hold or have) having an interest in a corporation, partnership, Holding Company, affiliate, or other form of business entity, or a security of a publicly traded corporation if such Person or any associate of such Person has a record of beneficial ownership therein.

Patron—an individual who is at least 21 years of age and who has lawfully placed a Wager in an authorized Game in the Casino.

Payout—winnings earned on a Wager.

Permit—any Permit or authorization or Application therefor issued pursuant to the Act other than a Gaming License.

Permittee—any employee, agent, Person, or entity who is required to be issued or applying for a Permit pursuant to the Act. Permittee does not include an Applicant in those particular sections or subsections where an Applicant is treated differently than a Permittee.

Person—means any individual, partnership, corporation, association, unincorporated association or organization, limited liability company, limited liability partnership, trust or other juridical entity or any governmental agency, body or subdivision.

Premises—land, together with all buildings, improvements, and personal property located thereon.

PTZ Camera—a video camera which possesses, at a minimum, pan, tilt and zoom capabilities or features comparable thereto.

Public Offering—a sale of Securities (other than Employee Stock Option Plans - *ESOP*) that is subject to the registration requirements of Section 5 of the Federal Securities Act, or that is exempt from such requirements solely by reason of an exemption contained in Section 3(a)(11) or 3(c) of said Act or Regulation A adopted pursuant to Section 3(b) of said Act.

Public Record—any paper, document, or other Record required to be kept or necessary to be kept, in the discharge of a duty imposed by law, not declared confidential by statute or regulation.

Randomness—the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

Records—accounts, correspondence, memorandums, audio tapes, video tapes, computer tapes, computer disks, electronic media, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

Regulations—regulations adopted by the Board pursuant to and authorized by La. R.S. 27:24.

Renewal Applicant—a Person who has filed any part of an Application for renewal of any License or Permit authorized by the Act.

Renewal Application—all of the information, documents, forms, and materials required by the Act and Regulations to be filed with the Division to renew any License or Permit authorized by the Act.

Restricted Sensitive Keys—those keys which can only be reproduced by the manufacturer of the lock. These keys include but are not limited to:

- a. slot drop cabinet keys;
- b. slot release keys;
- c. bill validator contents keys;
- d. table drop release keys;
- e. table drop contents keys;
- f. cage entrance keys;
- g. count room keys;
- h. high level Caribbean Stud key;
- i. vault entrance key;
- j. CCOM (processor) keys;
- k. card and dice storage keys;
- l. slot office storage box keys;
- m. dual lock box keys;
- n. change bank/booth keys;
- o. secondary chip access keys;
- p. weight calibration key.

Secondary Representative—any Person other than the clerical personnel and ticket takers not otherwise exempted by the definition of Junket Representative who receive any form of compensation from a licensed Junket Representative for assisting a licensed Junket Representative, in connection with junkets to the Casino.

Securities—any stock; membership in an incorporated association; bond; debenture; or other evidence of indebtedness, investment contract, voting trust certificate, certificate of deposit for a security; or, in general, any

interest or instrument commonly known as a security; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the forgoing regardless of whether evidenced in writing.

Security—the protection of information that would or could provide an unfair advantage to any individual involved in the operation of the Casino; protection and preservation of the integrity of the Games and operations; as well as measures taken to maintain order and prevent crimes against the Casino Operator, Persons in the Official Gaming Establishment or the State.

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

Subsidiary—includes, without limitation, any Person, other than an individual, which is a Controlled Affiliate of another Person, other than an individual.

Supervisor—the individual in charge of the Division or such other Person who may be lawfully delegated authority to act on behalf of the Supervisor.

Supplier of Gaming Devices and Gaming Equipment—any Person that Sells, leases, markets, offers, or otherwise distributes, directly or indirectly, any Gaming Devices or Gaming Equipment for use or play in this state or Sells, leases, or otherwise distributes any Gaming Devices or Gaming Equipment.

Surveillance Room—a secure location in the Official Gaming Establishment that is used primarily for Casino surveillance. The Official Gaming Establishment may have more than one Surveillance Room.

Surveillance System—a system of video cameras, monitors and recorders that is used for Casino surveillance.

Token—a metal representative of value, redeemable for cash, and issued and sold by the Casino Operator for use in Electronic Gaming Devices, table games or counter games at the Casino.

Trade Secrets—includes any matter the disclosure of which might tend to weaken a competitive advantage, whether concerning a unique, rare or common practice, discovery, or anything whatsoever. Examples of Trade Secrets include but are not limited to operational methods marketing information; patron information; patron lists; design of equipment; routing memoranda; payroll schedules; bookkeeping and accounting procedures; internal monetary control systems; equipment and component sources; Patron lists; proprietary information; and bid formulas.

Wager—a sum of money or thing of value risked on a game.

Win—the total of all cash and property (including checks received by the Casino, whether collected or not) received by the Casino from Gaming Operations, less the total of all cash and property paid out as Winnings to Patrons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1901 (October 1999).

§1909. Casino Operator is Licensee

A. These Regulations, subject to any rights in the Casino Operating Contract, intend for the terms Casino Operator and Licensee, to have the same meaning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1906 (October 1999).

§1911. Obligations, Duties, Responsibilities of a Casino Manager

A. In the event the Casino Operator subcontracts all, or substantially all of the services for the day-to-day management and operation of the Casino, pursuant to the Casino Operating Contract, to a Casino Manager, the Casino Manager's acts or omissions shall be considered the acts or omissions of the Casino Operator. All obligations, duties, and responsibilities imposed on the Casino Operator by these Regulations, that the Casino Operator has subcontracted with a Casino Manager to perform or that the Casino Manager has undertaken to perform, shall be the obligations, duties and responsibilities of the Casino Manager and the Casino Operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999).

Chapter 21. Applications; Suitability, Permitting and Licensing

§2101. General Provisions

A. All Persons required by the provisions of the Casino Act, the Regulations or by the Board to be Licensed, Registered, Permitted, Approved or otherwise found suitable shall be required to comply with this Chapter and all other applicable provisions of the Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999).

§2103. Applications in General

A. Any License or Permit issued by the Board or Division is deemed to be a revocable privilege, and no Person holding such a License or Permit is deemed to have acquired any vested rights therein, subject to any rights in the Casino Operating Contract. An Applicant for a License or Permit authorized by the Act and/or these Regulations, is seeking the granting of a privilege, and the burden of proving his qualification to receive the License or Permit is at all times on the Applicant. An Applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an Application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the Division. The filing of an Application under the Act and the Regulations constitutes a request for a decision upon the Applicant's general suitability, character, integrity, and ability to participate or engage in or be

associated with the Casino, and by filing an Application, the Applicant specifically consents to the making of such a decision by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999).

§2105. Applicants in General; Requirements

A. The securing of a License or Permit required under the Act is a prerequisite for conducting, operating, or performing any activity regulated by the Act. Each Applicant must file a complete Application as prescribed by the Board and Division, which may include without limitation, the following:

1. if the Applicant is a general partnership or joint venture, each individual partner and joint venturer may be required to complete an Application;

2. if the Applicant is a corporation, each officer and director of the corporation may be required to file a personal history form. Any shareholder with five percent or more of the corporation may be required to file a completed personal history form, and if such shareholder is other than a natural Person, then each officer, director, or Person with an economic interest equal to or greater than five percent (5%) in the Applicant may be required to file a personal history form;

3. if the Applicant is a limited partnership, the general partner and each limited partner having five percent (5%) or more interest may be required to file a complete application. If the partner or limited partner is other than a natural Person, then each officer, director, or Person with an Economic Interest equal to or greater than five percent (5%) in the Applicant may be required to file a personal history form;

4. if the Applicant is a limited liability company, pursuant to Louisiana R.S. 12:1301 et seq., each officer or manager of the company may be required to file a personal history form. Any member of five percent (5%) or more of the company may be required to file a personal history form, and if such member is other than a natural Person, then each officer, director or Person with an economic interest equal to or greater than five percent (5%) in the Applicant may be required to file a personal history form;

5. if the Applicant is a registered limited liability partnership, pursuant to Louisiana R.S. 9:3431 et seq., the managing partner and each partner having five percent (5%) or more interest may be required to file a personal history form. If the partner is other than a natural Person, then each officer, director or Person with an economic interest equal to or greater than five percent (5%) in the Applicant may be required to file a personal history form.

B. A personal history form may be required to be filed by any Person who in the sole discretion of the Board is determined to:

1. have influence over the operation of Gaming at the Landbased Casino;

2. receive any share or portion of the Gaming money or property won by the Casino Operator at the Landbased Casino; or

3. receive compensation or remuneration in excess of \$50,000 per annum as an employee of a Permittee or in exchange for any service or thing provided to a Permittee

that transacts business with the Casino Operator or Casino Manager; or

4. be a lessor or provider of goods or services; or
5. have any contractual agreement with a Permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999).

§2107. Form of Application

A. An Application for a *finding of suitability* or Permit must be filed by way of forms prescribed by and obtained from the Division. Such forms may include, but not be limited to:

1. historic record regarding the background for the ten-year period preceding submission of the Application, unless otherwise extended by the Chairman;
2. a financial statement;
3. statement disclosing the nature, source, and amount of any financing, the proposed uses of all available funds, the amount of funds available after opening for the actual operation of the Casino, and economic projections for the first three years of operation of the Casino;
4. an affidavit of full disclosure, signed by the Applicant;
5. an authorization to release information to the Division and Board, signed by the Applicant;
6. a standard bank confirmation form, signed by the Applicant;
7. a release of all claims, signed by the Applicant;
8. security statement explaining the type of security procedures, practices, and personnel to be utilized by the Applicant; and
9. in addition, the Division may require an Applicant to provide such other information and details as it needs to discharge its duties properly. Failure to supply any information within the prescribed time periods, after receiving the Division's or the Board's request, may constitute grounds for delaying consideration of the Application and/or constitutes grounds for denial of the Application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1908 (October 1999).

§2109. Additional Information Required from a Casino Operator Applicant

A. Every Casino Operator Application shall contain the following additional information including but not limited to:

1. two copies of detailed plans of design of the Casino, including a layout of each floor stating the projected use of each area;
2. the total estimated cost of construction of the Casino, proposed by this Application, distinguishing between known costs and projections, and shall separately identify:
 - a. facility design expense;
 - b. land acquisition or site lease costs;
 - c. site preparation costs;
 - d. construction cost or renovation cost;
 - e. equipment acquisition cost;

- f. cost of interim financing;
- g. organization, administrative and legal expenses;
- h. projected permanent financing costs;

3. the construction schedule proposed for completion of the Casino; including therein a projected date of completion. Indicate whether the construction contract includes a performance bond;

4. explanation and identification of the source or sources of funds for the construction of the Casino;

5. description of the Casino size and approximate configuration of Slot Machines, video games of chance and table games;

6. the adequacy of security enforcement in the Casino;

7. the type of Slot Machines and video games of chance to be used; also, indicate the proposed Suppliers and Manufacturers of this equipment;

8. the proposed management of the facility, management personnel by function and organizational chart by position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1908 (October 1999).

§2111. Application Filing Fees

A. All monies deposited by an Applicant to defray the costs associated with the Applicant investigation conducted by the Division must be deposited into a designated State treasury fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1908 (October 1999).

§2113. Fees for Issuance of Permits

A. The non-refundable fees for Permits and Renewals.

1. Key Gaming Employees:

a. \$500 Initial Application Fee plus actual costs of performing investigation according to the rates set forth in subsection B;

b. \$200 Renewal Fee plus any necessary investigation cost according to the rates set forth in subsection B.

2. Non-Key Gaming Employees:

a. \$100 Initial Application Fee plus actual costs of performing investigation according to the rates set forth in subsection B;

b. \$35 Renewal Fee.

3. Non-Gaming Employees:

a. \$25 Initial Application Fee;

b. \$15 Renewal Fee.

4. Manufacturer of Slot Machines:

a. \$2500 Initial Application Fee and \$10 per machine application fee plus costs of performing investigation according to the rates set forth in subsection B;

b. \$2500 Renewal Fee .

5. Manufacturer of Other Gaming Devices and Gaming Equipment:

a. \$2500 Initial Application Fee plus actual costs of performing investigation according to the rates set forth in subsection B;

b. \$2500 Renewal Fee.

6. Distributor of Gaming Devices and Gaming Equipment:

a. \$1500 Initial Application Fee plus actual costs of performing investigation according to the rates set forth in subsection B;

b. \$1500 Renewal Fee.

7. Non-Gaming Vendor:

a. \$250 Initial Application Fee for vendors conducting business with the Casino in annual, aggregate amount of \$50,000 or more;

b. \$100 Renewal Fee;

c. Vendors covered by subsection 7(a) shall pay actual costs of investigations according to the rates set forth in subsection B if required to submit to suitability.

B. Costs of suitability investigation shall be billed at the following rates:

1. \$40 per hour of investigation;

2. \$30 per hour of travel pursuant to investigation.

C. Any Person failing to pay any Permit fee due at the time provided shall pay in addition to such Permit fee a penalty of not less than (\$25) twenty-five dollars or (25%) twenty-five percent of the amount due, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1908 (October 1999).

§2115. Application Investigations

A. The Division shall investigate all Applications for Licenses or Permits or other matters requiring Division approval. The Division may investigate, without limitation, the background of the Applicant, the suitability of the Applicant, the suitability of the Applicant's finances, the Applicant's business probity, the suitability of the proposed premises for Gaming, the suitability of a Person with an economic interest in the Applicant of five percent (5%) or more, and the proposed establishment's compliance with all applicable federal, state, and municipal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999).

§2117. Conduct of Applicant Investigation; Time Requirements

A. All investigations conducted by the Division in connection with an Application must be conducted in accordance with the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999).

§2119. Access to Applicants' Premises and Records

A. Each Applicant shall upon request immediately make available for inspection by the Division or Agents of the Division, all papers, Books and Records used, or to be used, in the Licensed or Permitted operation. The Division, or any Agent of the Division, shall be given immediate access to any portion of the premises of the Casino or premises of a Manufacturer or Supplier for the purpose of inspecting or examining any records or documents required to be kept under the provisions of the Act and the Regulations and any Gaming Device or equipment or the conduct of any Gaming

Activity. Access to the areas and records that may be inspected or examined by the Division, or Division Agents, must be granted to any such individual who displays Division credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999).

§2121. Applications; Timetable for Financing and Construction

A. In conjunction with a Casino Operator's or Casino Manager's submission of its completed Application, an Applicant shall submit an estimated timetable for financing arrangements, commencement and completion of construction activities and set forth the projected date upon which Gaming Activities will begin. This timetable will be subject to Approval by the Board, and monitored for compliance by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999).

§2123. Fingerprinting

A. An initial Application is not complete unless all Persons required by the Division have submitted to fingerprinting by or at the direction of the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999).

§2125. Application; Refusal to Answer

A. An Applicant may claim any privilege afforded by the Constitution of the United States or of the State of Louisiana in refusing to answer questions on the Application, but a claim of privilege with respect to any testimony or evidence pertaining to an Application may constitute sufficient grounds for denial of the Application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999).

§2127. Information Constituting Grounds for Delay or Denial of Application; Amendments

A. It is grounds for denial of the Application or enforcement action for any Person to make any untrue statement of material fact in any Application, or in any statement or report filed with the Division or Board, or any statement or report required by the Act of these Regulations to be filed with the Board, or to willfully omit in any such Application, statement or report, any material fact which is required to be stated therein, or which is necessary to make the facts stated not misleading.

B. All information included in an Application must be true and complete to the best of the Applicant's knowledge, and in the opinion of the Division as of the date submitted. An Applicant shall immediately supply by amendment any new information based on facts occurring after the original Application.

C. An Application may be amended upon Approval of the Supervisor. An amendment to an Application may have

the effect of establishing the date of such amendment as the filing date of the Application with respect to the time requirements for action on the Application. Request for amendment to an Application must be in writing and submitted to the Division.

D. Upon request of the Board or Division for additional information, the Applicant shall provide the requested information with ten days of notice of the request or within such additional time as set forth by the Board or Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1909 (October 1999).

§2129. Tax Clearances Required of an Applicant

A. The Applicant, officers, directors and any Person with an equity interest of five percent (5%) or more in an Applicant must receive tax clearances from the appropriate Federal and State agencies prior to the granting of a finding of suitability, except for those granted a presumption of suitability in accordance with §2143 of these Regulations.

B. The Applicant, its officers, directors and any Person with an equity interest of five percent (5%) or more shall remain current in filings of tax returns and the payments required pursuant to such returns.

C. The violation of this section is grounds to condition, suspend, or revoke a Permit or License.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999).

§2131. Tax Clearances Required of a Gaming Employee

A. An Applicant for a Gaming Employee Permit shall be current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the State of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

B. It shall be the sole responsibility of a Gaming Employee Permittee to remain current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the State of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999).

§2133. Withdrawal of Application

A. A request for withdrawal of an Application must be made in writing to the Board at any time prior to issuance by the Board of its determination with respect to the Application. The Board may deny or grant the request with or without prejudice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999).

§2135. Application After Denial

A. Any Person whose Application for License or Permit has been denied by the Hearing Officer, and who has not successfully appealed the decision of denial to the Board, or whose Application has been withdrawn with prejudice is not eligible to reapply for any Approval authorized by the Act for a period of five years unless the Board rules that the denial is without prejudice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999).

§2137. Suitability Determination of a Casino Operator Applicant

A. The Casino Operator Applicant, its officers or directors, or any Person, having a five percent (5%) or more interest in the Casino Operator Applicant shall be required to submit to an investigation to determine suitability. Except as otherwise provided, all costs associated with conducting an investigation for suitability of the Casino Operator Applicant, an officer or director, or any Person having a direct or indirect Economic Interest in the Casino Operator Applicant shall be borne by the Casino Operator Applicant and/or the person who is the subject of the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999).

§2139. Other Considerations for Finding of Suitability

A. §2137 through 2151 of these Regulations set forth criteria which the Board may consider when deciding whether to issue a finding of suitability to conduct Casino Gaming. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of an Application for a finding of suitability. The following criteria are not listed in order of priority.

1. Proper financing. The Board may consider whether the proposed Casino is properly financed.

2. Adequate security. The Board may consider whether the proposed Casino is planned in a manner which provides adequate Security for all aspects of its operation and for the people working or visiting the Casino.

3. Character and reputation. The Board may consider the character and reputation of all Persons identified with the ownership and operation of the Casino, and their capability to comply with the Regulations, and the provisions of the Act.

4. Miscellaneous. The Board may consider such other factors as may arise in the circumstances presented by a particular Application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999).

§2141. Suitability; License and Permits

A. No Person shall be eligible to conduct Gaming Operations at the Casino or obtain any License or Permit

issued pursuant to the provisions of the Act or these Regulations unless the Board is satisfied that the Applicant is suitable. To be found suitable, the Applicant must prove by clear and convincing evidence that he is:

1. a Person of good character, honesty, and integrity.
2. a Person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;
3. is capable of and likely to conduct the activities for which the Applicant or Casino Gaming Operator is Licensed or Approved in accordance with the provisions of the Act and these Regulations.

B. For purposes of entering into a Casino Operating Contract, the Casino Operator Applicant shall also demonstrate by clear and convincing evidence that:

1. he has or guarantees acquisition of adequate business competence and experience in the operation of Casino Gaming Operations;
2. the proposed financing of the conducting of Casino Gaming Operations is:
 - a. adequate for the nature of the proposed operation;
 - b. from a suitable source;
 - c. he has or is capable of and guarantees the obtaining of a bond or satisfactory financial guarantee of sufficient amount, as determined by the Board, to guarantee successful completion of and compliance with the Casino Operating Contract or such other projects which are regulated by the Board.

C. All Casino Operators, Licensees, Permittees, registrants, and Persons required to be found suitable under this Chapter have a continuing duty to inform the Board of any action which they believe would constitute a violation of this Chapter. No Person who so informs the Board shall be discriminated against by an Applicant, the Casino Operator, Permittee, or registrant because of supplying such information.

D. The Applicant, if a natural Person, is a Louisiana domiciliary and if not, is a Louisiana corporation, partnership, limited liability company, or a registered limited liability partnership Licensed to conduct business in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999).

§2142. Criteria For The Issuances Of Permits

A. All Applicants for any type of Permit issued by the Division as authorized by the Act shall meet the qualification requirements contained in La. R.S. 27:234 and 27:235, as well as the qualification requirements contained in the Regulations promulgated pursuant to the Act.

B. All Applicants for any type of Permit issued by the Division as authorized by the Act shall pay all fees required by the Act or the rules promulgated pursuant to the Act prior to the issuance of Permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1911 (October 1999).

§2143. Suitability of Casino Operator

A. The following Persons shall demonstrate their suitability and qualification to the Board by clear and convincing evidence:

1. a Casino Operator;
2. a Casino Manager;
3. an Affiliate of the Casino Operator;
4. certain holders of debt and/or equity interest in one or more of the Casino Operator and its Affiliates;
5. all other Persons, who either alone or in combination with others, have the ability to significantly and directly affect or influence the affairs of a Casino Operator or a Casino Manager;
6. a Person with respect to whom a finding of suitability is necessary in order to insure that the policies of the Act and the integrity of gaming operations are protected; and
7. any other Person that the Board, in its sole discretion, directs to demonstrate its suitability and qualifications.

B. For the purposes of this Section, any Persons holding, owning or controlling a direct or beneficial interest (this shall include any rights created in any counter-letter, option, convertible security or similar instrument) in the following Persons shall be presumed to have the ability to significantly and directly influence or affect affairs of a Casino Operator or a Casino Manager unless the presumption is rebutted by clear and convincing evidence:

1. any Persons holding, owning or controlling a 5% or more equity interest or outstanding voting Securities (including holdings in trust and whether as settlor, trustee or beneficiary) in a non-publicly traded Casino Operator, Casino Manager, Holding Company or Intermediary Company of the Casino Operator or the Casino Manager.
2. any Persons holding, owning or controlling a 5% or more equity interest or outstanding voting Securities or rights in a publicly traded Casino Operator, Casino Manager or any publicly traded Holding Company or Intermediary Company of the Casino Operator or the Casino Manager.

C. Notwithstanding the terms of Subsection B above, the following Persons shall not be automatically deemed to have the ability to significantly and directly influence the affairs of the Persons or entities identified above requiring a finding of suitability:

1. a holder or owner of a Security or other interest that is convertible or exercisable into an equity or ownership interest in a Publicly Traded Intermediary or Holding Company of the Casino Operator or Casino Manager, prior to the time that the Security or other interest is converted or exercised. A holder or owner of a convertible interest shall seek the Approval of the Board before exercising the conversion rights unless, after conversion such person will hold, own or Control less than 5% of the total outstanding equity or ownership interests in the Intermediary or Holding Company of the Casino Operator or Casino Manager.

D. Notwithstanding the terms of Subsection B above, a person who is a passive institutional investor who does not, directly or indirectly influence or affect the affairs of the Casino Operator or the Casino Manager may be presumed suitable if:

1. the Person is:
 - a. a plan or trust established and maintained by the United States government, a State, a political subdivision of a state for the benefit of their respective employee;
 - b. an investment company that is registered under the Investment Company Act of 1940;
 - c. a Collective Investment Trust organized by a bank under Part Nine of the Rules of the Comptroller of the Currency;
 - d. a closed-end investment trust registered with the United States Securities and Exchange Commission;
 - e. a mutual fund;
 - f. a life insurance company a property and casualty insurance company with assets in excess of \$1 billion;
 - g. a Federal or State bank;
 - h. an investment advisor registered under the Investment Advisors Act of 1940; and

2. within 60 days of acquiring a 5 percent or greater equity interest in the Casino Operator, a holding company or intermediary company thereof or a Casino Manager, files with the Board a petition that requests a granting by the Board of a presumption of suitability and contains a statement that such Person does not and has no intention of directly or indirectly influencing the affairs of the Casino Operator or Casino Manager.

3. the provisions of this subsection shall not prevent the institutional investor from voting on matters put to vote by the outstanding shareholders.

E. The Board may in its sole discretion rescind the presumptions of suitability set for in §2143.D and require any Person, including the Persons described in §2143.D above, to demonstrate such Person's suitability in accordance with the Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1911 (October 1999).

§2145. Presumption of Suitability of Certain Lenders

A. Any Person with a security interest in immovable or movable property used in Gaming Operations shall be required to demonstrate his suitability to the Board.

B. In connection with Subsection A above, the following may be presumed suitable in connection with any transaction which is otherwise in compliance with these Regulations.

1. An insurance company regulated by any state of the United States;
2. Any investment company registered under the Investment Company Act of 1940;
3. Any plan established and maintained by a state, its political subdivision, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees;
4. Any trust fund the trustee of which is a bank or trust company and the participants of which are exclusively plans of the type identified in Subsection (B)(3) above;
5. Any investment adviser registered with the United States Securities and Exchange Commission;
6. Any real estate investment trust registered with the United States Securities and Exchange Commission;
7. Any dealer registered pursuant to Section 15 of the Securities and Exchange Act of 1934;

8. Any *qualified institutional buyer* (as defined in Rule 144A under the Securities Act of 1933), and any entity, all of the equity owners of which are *qualified institutional buyers* (as defined rule 144 A under the Securities Act of 1933), acting for its own account or the accounts of other qualified institutional buyers;

9. Any bank as defined in Section 3(a)(2) of the Securities Act of 1933, any savings and loan association or other institution as referenced in Section 3(a)(5)(A) of the Securities Act of 1933, or any foreign bank or savings and loan association or equivalent institution or any investment fund that participates in a bank syndication (and any purchaser that takes an assignment or other participation interest in the bank syndication);

10. Any investor or group of investors purchasing debt securities of the Casino Operator (or a subsidiary of the Casino Operator) in any public offering registered pursuant of the Securities Act of 1933 or through any private placement, and any investor purchasing such securities in a subsequent sale, provided, however, that such securities are widely held and freely traded (and the investor holds no more than 20% of the Casino Operator's total debt or 50% of a material debt issue unless otherwise Approved by the Board), so as not to give such investor the ability to control the Casino Operator or the Casino Manager;

11. Any business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940;

12. Any business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940;

13. Any person found suitable and Approved by the Board.

C. The Board, in its sole discretion, may rescind the presumption of suitability set forth in Subsection B and require any lender or investor to demonstrate its suitability in accordance with the terms of the Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1912 (October 1999).

§2147. Safe Harbor

A. If at any time the Board finds that (a) an Affiliate or (b) a holder of a debt or equity interest in (i) the Casino Operator, (ii) the Casino Manager or (iii) any of their respective Affiliates, that is required to be and remain suitable has failed to demonstrate suitability, the Board may, consistent with the Act and the Casino Operating Contract, take any action that the Board deems necessary to protect the public interest. Provided however if, (a) an Affiliate or (b) a holder of a debt or equity interest in (i) the Casino Operator, (ii) the Casino Manager or (iii) any of their respective Affiliates associated with the Casino Operator, the Casino Manager or Affiliates has failed demonstrate suitability, the Board shall take no action to declare the Casino Operator, Casino Manager, or Affiliates, as the case may be, not suitable based upon such finding, if the affected Casino Operator, Casino Manager or Affiliates takes immediate good-faith action (including the prosecution of all legal remedies) and complies with any order of the Board to cause such Person failing to demonstrate suitability to dispose of such Person's interest in the affected Casino Operator, Casino Manager or Affiliates, and that pending such disposition such affected Casino Operator, Casino Manager

or Affiliates, from the date of notice from the Board of a finding of failure to demonstrate suitability, ensures that the Person failing to demonstrate suitability:

1. does not receive dividends or interest on the securities of the Casino Operator, Casino Manager or Affiliates;

2. does not exercise, directly or indirectly, including through a trustee or nominee, any right conferred by the securities of the Casino Operator, Casino Manager or Affiliates;

3. does not receive any remuneration from the Casino Operator, Casino Manager or Affiliates;

4. does not receive any economic benefit from Casino Operator, Casino Manager or Affiliates;

5. subject to the disposition requirements of this Section, does not continue in an ownership or economic interest in the Casino Operator, Casino Manager or Affiliates or remain in a manager, officer, director, partner, employee, consultant or agent of the Casino Operator, Casino Manager or Affiliates.

B. Nothing contained in this Section shall prevent the Board from taking any action against the Casino Operator if the Casino Manager fails to be or remain suitable. Moreover, nothing contained in this Section shall prevent the Board from taking regulatory action against the Casino Manager, Casino Operator, or Affiliates as the case may be, if the Casino Operator, Casino Manager or Affiliates, as the case may be:

1. had actual or constructive knowledge of the facts that are the basis of the Board's regulatory action, and failed to take appropriate action; or

2. is so tainted by such Person failing to demonstrate suitability of the Casino Operator, the Casino Manager, or Affiliates under the standards of the Act or these Regulations; or

3. cannot meet the suitability standards contained in the Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1912 (October 1999).

§2149. License or Permit Disqualification Criteria

A. The Board shall not grant a finding of suitability or a Permit to any Person who is disqualified on the basis of any of the following criteria:

1. Failure of the Applicant to prove by clear and convincing evidence that he is suitable in accordance with the Provisions of either the Act or the Regulations.

2. Failure of the Applicant to provide information and documentation ;

a. to reveal any fact material to a suitability determination;

b. material and relevant to the Application, or

c. requested by the Board or Division;

3. Supplying information to the Board or Division that is untrue or misleading as to a material fact pertaining to the qualification criteria.

4. The conviction of or a plea of guilty or nolo contendere by the Applicant or of any Person required to be found suitable by the Act or Regulations for an offense punishable by imprisonment of one year or more.

5. The current prosecution of, or pending charges in any jurisdiction of the Applicant or any Person required to be found suitable under the Act or the Regulations for an offense punishable by imprisonment of one year or more.

6. If the Applicant is a corporation which is owned by a parent or other corporation or Person as defined in La. R.S. 27:205, then the applicant shall be disqualified if any Person owning more than five percent (5%) of the common stock of the parent corporation has been convicted of, or pled guilty or nolo contendere to, a felony offense.

7. If the Applicant is a corporation, partnership, association, joint venture, or other entity of which any individual holding five percent (5%) or more interest in the profits or loss has been convicted of, or pled guilty or nolo contendere to, an offense which at the time of conviction is punishable as a felony.

8. Has been found unsuitable or has been denied a license or permit, or has had a license or permit suspended or revoked in another gaming jurisdiction, unless circumstances indicate in the sole discretion of the Board that such finding is not contrary to the best interest of the State of Louisiana.

9. If the Applicant is a person holding public office in, or being employed by, any governmental agency within the State of Louisiana.

B. A Permit, finding of suitability or Approval may be denied if the Applicant or any Person who has any ownership, income or profit interest in an Applicant or who, in the opinion of the Board, exercises a significant influence over the activities of the Applicant:

1. knowingly failed to comply with any Gaming Law or Regulation in Louisiana or any other Gaming Jurisdiction.

2. committed or attempted to commit any crime of moral turpitude, embezzlement or theft, or any violation of law that is contrary to the declared policy of the State of Louisiana regarding Gaming.

3. has been identified in published reports of any Federal or State Legislative or Executive body as being a member or associate of organized crime or being of notorious or unsavory reputation.

4. has been in place and remains in constructive custody of any, federal, state or municipal authority.

5. is not current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the State of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable procedures, and items of which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

C. These bases and grounds for denial are not exclusive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1913 (October 1999).

§2151. Continuing Suitability, Duty To Report

A. Suitability is an ongoing process. The Casino Operator, Casino Manager and all Permittees, registrants, and Persons required to submit to suitability by the Act or these Regulations have a continuing duty to inform the Board of any action which could reasonably be believed to constitute a violation of the Act or Regulations. This obligation to report is to be construed in the broadest

possible manner; any question that exists regarding whether a particular action or circumstance constitutes a violation shall be decided in favor of reporting. The Board shall be notified no later than 10 days from the date the Licensee, Permittee, registrant or Person knew or should have known of the possible violation. No Person who so informs the Board shall be discriminated against by an Applicant, Licensee, Permittee or registrant because of supplying such information.

B. The Casino Operator, Casino Manager and all Permittees, registrants and Persons required to submit to suitability shall also have a continuing duty to inform the Board of material changes in their affiliations, businesses, financial standing, operations, ownership relationships or corporate management personnel, provided however, in the case of a publicly traded company, this obligation shall be satisfied if such company files copies of all form 10Ks, 10Qs, and 8Ks filed with the Securities and Exchange Commission, within ten (10) days of filing with the Securities and Exchange Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1913 (October 1999).

§2153. Cash Transaction Reporting

A. The Casino Operator shall report any administrative or criminal proceedings alleging a violation pertaining to a cash transaction report, as defined by the Internal Revenue Service, to the Division within ten (10) days of knowledge by the Casino of the violation.

B. Any administrative or criminal proceedings alleging a violation pertaining to cash transaction report requirements in any jurisdiction by the Casino Operator, Casino Manager or any of their respective Holding or Intermediary Companies or Affiliates of the Holding or Intermediary Companies, shall be reported to the Division within thirty (30) days of the notice of violation in the other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999).

§2155. License and Permit Terms and Filing of Application

A. As required by La. R.S. 27:241(A) and the Casino Operating Contract, the Casino Operator shall conduct Casino Gaming Operations at the Official Gaming Establishment for a primary term of twenty years with a ten year renewal option.

B. Employee Permits, as required by the Act, shall have a term of one year.

C. Vendor Permits shall have a term of two years.

D. Each Application, including renewal Applications, shall be deemed filed with the Division when the Application form has been received by the Division, as evidenced by a signed receipt.

E. All renewal Applications for Permits shall be submitted to the Division no later than 90 days prior to the expiration of the Permit and all fees as required by law shall be paid on or before the date of expiration of the permit.

F. If any employee of a Casino Operator, Licensee, or Permittee who is required to have a License or Permit fails

to renew his License or Permit as provided herein, the employer, upon notice by the Division, shall terminate the employee or suspend the employee without pay until such time as the employer is notified by the Division that the employee has renewed his License or Permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999).

§2159. Gaming Employee Permits Required

A. No Person may be employed as a Gaming Employee unless such Person is the holder of a valid Gaming Employee Permit issued by the Division.

B. The Casino shall secure an application and fingerprint cards from the Division for each prospective Gaming Employee.

C. Every Gaming Employee shall keep his Gaming Employee Permit on his Person and displayed in accordance with §2163 of these Regulations at all times when actively engaged in Gaming Operations, or on the Licensed premises.

D. A Gaming Employee Permit is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999).

§2161. Application for Gaming Employee Permit; Procedure

A. An Applicant for a Gaming Employee Permit shall submit to fingerprinting at the direction of the Division and supply two passport size photographs. The photographs must be satisfactory to the Division and must have been taken not earlier than three months before the date of filing the Application. The Applicant shall also provide any other information requested by the Division.

B. An Applicant for a Gaming Employee Permit shall pay the Application fee established by the Act prior to the issuance of the Permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999).

§2163. Display of Gaming Employee Permit

A. A Gaming Employee Permit as required by these Regulations shall be worn by all employees during work hours. The Gaming Employee Permit shall be clearly displayed and worn in a manner as prescribed by the Division.

B. With prior Approval of the Supervisor or his designee, individual employees may be authorized to remove their Gaming Employee Permit. An employee authorized to remove his Gaming Employee Permit is responsible for producing his permit without delay if requested by the Division.

C. A fee of \$15 shall be paid to the Division for any necessary replacement(s) or modifications of a Permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999).

§2165. Permit Requirements for Persons Furnishing Services or Property or Doing Business With the Casino Operator or Casino Manager:

A. All Manufacturers of Slot Machines, Gaming Devices or other Gaming Equipment, the companies or Persons supplying or repairing Slot Machines, Gaming Devices or other Gaming Equipment, companies providing or repairing Casino security services, limousine services and junket operators must be permitted, in accordance with these Regulations, prior to conducting any business with the Casino Operator, Casino Manager or their employees or agents.

B. Subject to §2166 of these Regulations, all Casino service industries not included in Subsection A of this section shall be required to be Permitted if the Person or company proposes to conduct business with the Casino in an annual, aggregate amount of \$50,000 or more in a consecutive twelve (12) month period. Such Casino service industries, whether or not directly related to Gaming Operations include: suppliers of food and non-alcoholic beverages; Gaming Employee or dealer training schools; garbage handlers; vending machine providers; linen suppliers; and maintenance companies. This list is illustrative and not meant to be exclusive.

C. All Casino service industries covered by Subsection B of this Section that propose to conduct business with the Casino in an aggregate amount of less than \$50,000, in a consecutive twelve (12) month period may be required to be Permitted. The decision to require a Permit rests in the sole discretion of the Board.

D. The method of applying for a Permit is as set forth in this Chapter of the Rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999).

§2166. Exemptions/Waivers From Non-Gaming Vendor Permit Requirements

A. Pursuant to La. R.S. 27:238(C)(1-2), the following Persons are exempt from the permitting requirements of §2165 and these Regulations.

1. Non-profit charitable organizations, donations, sponsorships, and educational institutions that receive funds from the Casino, including educational institutions that receive tuition reimbursement on behalf of employees of the Casino Operator or Casino Manager:

a. Non-profit charitable organization shall mean a non-profit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(C), (3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code.

2. Entities which provide only one or more of the following services to the Casino and which are the sole source provider of such services:

- a. water;
- b. sewerage;
- c. electricity;
- d. natural gas; and
- e. local telephone services.

3. Regulated insurance companies providing insurance to the Casino Operator or Casino Manager and its employees (medical, life, dental, and property);

4. Employee benefit and retirement plans and related administrator including incorporated 401K plans and employee stock purchase programs;

5. National or local professional associates that receive funds from the Casino Operator or Casino Manager for the cost of enrollment, activities, and membership;

6. All state, federal, and municipal operated agencies;

7. All liquor, beer and wine industries regulated by the Louisiana Alcohol Beverage Control Commission/Board;

8. State and federally regulated banks and savings and loan associations (unless such institutions are operating under any type of cease and desist or similar type order) not withstanding those sources or transactions provided to a licensee which require Board Approval;

9. Providers of professional services including accountants, architects, attorneys, engineers and lobbyists;

10. Hotels and restaurants;

11. Electronic and print media, newspapers and book publishers;

12. Nationwide shipping services, including Federal Express, United Parcel Service, Airborne Express and Emory Freight;

B. Nothing herein shall be construed to bar any other business entities from seeking a waiver of non-gaming vendor permitting requirements upon a written showing of good cause.

C. The Board may, in its sole discretion, revoke any exemption granted under Subsection A above and require any Person to submit to the permitting requirements of §2165 and these Regulations.

D. This Section does not relieve the Casino Operator or Casino Manager of any reporting obligations required by §2907 or §2715.P of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1915 (October 1999).

§2167. Junket Representative Permit

A. Junket Representatives shall apply for and receive either a Conditional Junket Representative Permit in accordance with §2169 of these regulations or a Junket Representative Permit in accordance with this Section prior to receiving compensation from the Casino Operator for any junket activities with or on behalf of the Casino Operator. Nothing herein shall prevent a Junket Representative from bringing patrons to the Casino, prior to obtaining a Conditional Junket Representative Permit or a Junket Representative Permit, provided however, no compensation shall be paid to the Junket Representative for such activity unless and until a Conditional Junket Representative Permit or a Junket Representative Permit shall be issued.

B. A Junket Representative shall not transact business with or on behalf of the Casino Operator other than is customary in the industry.

C. An application for a Junket Representative Permit shall be made on the forms as prescribed by the Division and may include but not be limited to:

1. name, address and type of organization of the Junket Representative;

2. a copy of any proposed agreement between the Casino Operator and the Junket Representative which shall set forth the nature of compensation to be paid to the Casino Operator;

3. a personal history form for the Junket Representative;

4. the designation of Persons whom the Junket Representative may use as a Secondary Representative;

5. a statement on a form furnished or approved by the Division that the Junket Representative:

a. submits to the jurisdiction of the State of Louisiana and the Board;

b. designates the Secretary of State as its representative upon whom service of process may be made; and

c. agrees to be bound by the laws of the State of Louisiana and the Regulations of the Board;

6. if the Junket Representative is not an individual, the Division may designate the officers and principals of the Junket Representative that shall also provide personal history forms to the Division.

D. Any agreement between a Junket Representative and the Casino Operator shall:

1. be in writing;

2. set forth the nature of compensation to be paid to the Junket Representative and contain an acknowledgment that no compensation shall be paid by the Casino Operator unless and until a Junket Representative Permit or Conditional Junket Permit has been issued;

3. contain an acknowledgment that the Junket Representative shall be bound by the laws of the State of Louisiana and the Regulations of the Board; and

4. shall contain an acknowledgment by the Junket Representative that the agreement shall terminate without liability on the part of the Casino Operator, the Board or any affiliated entity for services performed or to be performed by the Junket Representative if the Board denies either a Conditional Junket Representative Permit or Junket Representative Permit, issues a finding of unsuitability regarding the Junket Representative or otherwise orders the suspension or termination of the agreement between the Junket Representative and the Casino Operator (regardless of whether the Junket Representative is pursuing any administrative or appellate remedies) to challenge any action or inaction of the Board and regardless of the outcome of any administrative or appellate remedies).

E. The Board shall not issue a Junket Representative Permit until the applicant has demonstrated to the Board by clear and convincing evidence that the applicant is a person of good character, honesty and integrity, is a person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest or the effective regulation and control of gaming, is a person that does not create or enhance the dangers of unsuitable, unfair or illegal practices, methods or activities in the gaming industry, and that such person otherwise meets the suitability criteria in Chapter 21 of these Regulations.

F. The issuance of a Junket Representative Permit shall authorize the Casino Operator to pay compensation to the Junket Representative as per the agreement, subject to any conditions imposed by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1915 (October 1999).

§2169. Conditional Junket Representative Permit

A. The Board may issue a Conditional Junket Representative Permit when, in the Board's sole judgment, the issuance of such Permit would further the purposes of the Act.

B. In order to obtain a Conditional Junket Representative Permit, it must be demonstrated to the satisfaction of the Board that:

1. the applicant has filed a properly completed Junket Representative Permit Application, with all necessary attachments;

2. the applicant has paid the Application fee for a Junket Representative Permit;

3. the Applicant has provided a copy of all agreements with the Casino Operator;

4. the Applicant has provided a statement that the Junket Representative:

a. submits to the jurisdiction of the State of Louisiana and the Board;

b. designates the Secretary of State as its representative upon whom service of process may be made;

c. agrees to be bound by the laws of the State of Louisiana and the Regulations of the Board;

5. the Applicant has provided a list of all Secondary Representatives;

6. if the Applicant is licensed, authorized or permitted to engage in junket activities in another jurisdiction, that such license(s), authorization(s) or permit(s) in each prior licensing jurisdiction(s) have not been suspended or revoked.

C. A Conditional Junket Representative Permit shall not be issued until all of the requirements of Subsection B.1-6 if applicable listed above have been satisfied and the Division has been able to conduct a preliminary investigation on the Applicant.

D. The issuance of a Conditional Junket Representative Permit, unless stated therein otherwise, shall constitute authorization for the Casino Operator to pay compensation to the Junket Representative in an amount not to exceed \$50,000. Although compensation in excess of \$50,000 may not be paid to the Junket Representative who holds a Conditional Junket Representative Permit, the Junket Representative may continue to perform services to the Casino Operator pending the Division's completion of its investigation regarding suitability.

E. A Conditional Junket Representative Permit shall expire on the earlier of:

1. one year from the date of issuance;

2. a finding of unsuitability or denial of the Junket Representative Permit;

3. such Permit being otherwise revoked or suspended by the Board; or

4. the issuance of a Junket Representative Permit.

F. In calculating the \$50,000 threshold, the Casino Operator shall account for all compensation paid to the Junket Representative, on an annual basis, and include any compensation paid to any person or entity that is affiliated with the Junket Representative or is otherwise known by the Casino Operator or Casino Manager to jointly-conduct business with the Junket Representative. If at any time the

Board, in its sole discretion, determines that the business of two or more Junket Representatives is reported as an independent business for the purpose of circumventing or evading Permit requirements, the Board may, in addition to any other regulatory action deemed appropriate, aggregate the compensation payments made to such Junket Representatives for the purpose of calculating the \$50,000 threshold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1916 (October 1999).

§2171. Determination of Unsuitability of Junket Representatives

A. The Casino Operator, upon written notification of a finding of unsuitability or other Order of the Board or Division, shall immediately terminate all relationships, direct or indirect with the specified Junket Representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999).

§2173. Reporting Requirements of Junket Representatives

A. Annually, on or before July 15, each Junket Representative shall file a list of all Secondary Representatives on a form furnished or Approved by the Division. The Casino Operator shall send a notice annually, on or before June 1, to each Junket Representative under contract, advising the registered Junket Representative of the requirements of this Section.

B. The Junket Representative shall report additions, deletions, and changes to the following items to the Division within 30 days thereof;

1. The Junket Representative's address or telephone number;
2. The officers, directors, or shareholders or partners of the Junket Representative;
3. The list of Secondary Representatives.

C. The Casino Operator or Casino Manager shall submit a quarterly Junket Representative report to the Division which shall provide:

1. the name of the Junket Representative;
2. a schedule of all compensation paid to each Junket Representative and the date thereof, including the amount of compensation earned during the preceding twelve month period;
3. the names of any known Secondary Representatives utilized by the Junket Representative;
4. a statement as to whether future junkets are anticipated; and
5. any other information required by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999).

§2175. Denial, Revocation, Restrictions

A. The Board, consistent with La. R.S. 27:250(B), may deny, revoke, suspend, limit, condition or restrict any Permit, finding of suitability or Approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999).

§2177. Surrender of a Permit

A. A Permit may not be surrendered without the prior written Approval of the Board.

B. If a request to surrender a Permit without prejudice is Approved, the Applicant is immediately eligible to apply again for Permitting, unless the Board has placed a condition on the time in which the Applicant shall wait in order to reapply.

C. If a request to surrender a Permit is Approved with prejudice, the Applicant shall not be eligible to apply for a Permit for a period of five years after the date of the Approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999).

Chapter 23. Compliance, Inspections and Investigations

§2301. Applicability and Resources

A. These Rules and Regulations are applicable to inspections and investigations relative to compliance with the Act and the Rules and Regulations promulgated pursuant to the Act. The Division is empowered to employ such personnel as may be necessary for such inspections and investigations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999).

§2303. Inspections and Observations

A. Upon presentation of Identification, the Board, the Division and their representatives shall have the complete, immediate and unrestricted right at all times and without notice or demand to the Casino Operator, the Casino Manager, Permittee or any other Person, to enter and:

1. inspect the entire Casino and its ancillary facilities, including all so-called restricted areas;
 2. inspect the premises where Gaming Devices and Gaming Equipment are stored, manufactured, sold or distributed;
 3. inspect any Gaming Device or Gaming Equipment;
- or
4. observe the conduct of any Gaming Activity.

B. These entries and inspections may or may not be known to the Casino Operator, Casino Manager or Permittee.

C. The Casino Operator, Casino Manager or any Permittee shall upon request immediately make available for inspection, by the Board, the Division and their representatives all papers, documents, books and records used in the Casino or Permitted operation.

D. As more fully detailed in Section 9.26 of the Casino Operating Contract, the Board, the Division and their representatives shall also be afforded contemporaneous, complete and unrestricted access to information stored on-line in the SDS and CMS systems or any other computer system relating to Casino Operations.

E. Immediate access to the areas and records that may be inspected or examined by the Division, Division Agents, the Board or their representatives shall be granted to any such individual who displays Division or Board credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1917 (October 1999).

§2305. Inspections During Construction

A. The Supervisor may designate one or more Agents of the Division to inspect the construction of the Landbased Gaming facility. The Casino Operator shall deliver to the Gaming Board accurate scale drawings of the floor plans of the Casino showing and designating the use for each room or enclosed area, the *secured* areas, and particularly areas where gross gaming receipts and other Casino revenues are handled.

B. Upon presentation of identification, any designated Agent of the Division may demand and shall be given immediate access to any place where construction of the Casino or any of its component parts is underway .

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999).

§2306. Inspections of Persons Furnishing Services or Property or Doing Business With the Casino Operator or Casino Manager

A. The Board, the Division and their Representatives shall have the right to inspect any Person transacting business or providing services or property to the Casino Operator or Casino Manager. This right of inspection includes the physical property and buildings, all books and records as well as all computer programs, files and disks. This right of inspection covers all Persons regardless of the amount of business conducted with the Casino Operator or Casino Manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999).

§2307. Investigations

A. All investigations of any alleged violations of the Act or of the Rules and Regulations by an Applicant, Licensee or Permittee must be conducted by the Board and/or Division and may or may not be made known to the Applicant, Licensee or Permittee before being completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999).

§2309. Investigative Powers of the Board and Division

A. In conducting an investigation, the Board and/or Division is empowered to:

1. inspect and examine the entire Casino wherein Gaming Activities are conducted, proposed to be conducted or Gaming Devices are maintained or repaired, its ancillary facilities, and where all papers, books, records, documents and electronically stored media are maintained;

2. summarily seize and remove Gaming Devices and Gaming Equipment from such premises and impound any equipment for the purpose of examination and inspection;

3. have access to inspect, examine, and photocopy all papers, books, records, documents and information of an Applicant, Licensee, or Permittee pertaining to the Licensed or Permitted operation or activity, on all premises where such information is maintained;

4. review all papers, books, Records, and documents pertaining to the Licensed or Permitted operation;

5. conduct audits to assist the Board in determining compliance with all Gaming laws, Rules and Regulations on Gaming Activities and operations under the Board's jurisdiction.

6. issue subpoenas, as provided in this chapter, in connection with any investigation conducted by the Board or Division;

7. conduct depositions and/or obtain formal statements;

8. issue written interrogatories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999).

§2311. Seizure and Removal of Gaming Equipment and Devices

A. Gaming Equipment or Devices may be summarily seized by the Division. Whenever the Division seizes and removes Gaming Equipment or Devices:

1. an inventory of the Gaming Equipment or Devices seized will be made by the Division, identifying all such equipment or devices as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such Gaming Equipment or Devices will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the Casino Operator or Permittee will be notified in writing by the Division at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or device is to be impounded. A copy of the inventory of the seized equipment or device will be provided to the Casino Operator, Licensee or Permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999).

§2315. Seized Equipment and Devices as Evidence

A. All Gaming Equipment and Gaming Devices seized by the Division shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a Cheating Device shall not be returned. All Cheating Devices shall become the property of the Division upon their seizure and may be disposed of by the Division, which disposition shall be documented as to date and manner of disposal;

2. the Division shall notify by certified mail each known claimant of a Cheating Device that the claimant has

ten (10) days from the date of the notice within which to file a written claim with the Division to contest the characterization of the property as a Cheating Device;

3. failure of a claimant to timely file a claim as provided in Subsection 2 above will result in the Division's pursuit of the destruction of property;

4. if the property is not characterized as a Cheating Device, such property shall be returned to the claimant within fifteen (15) days after final determination;

5. items seized for inspection or examination may be returned by the Division without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1918 (October 1999).

§2325. Sanctions

A. The Board may impose any sanction authorized by the Act for any violation of the Act or of the Regulations adopted pursuant to the Act after notice of the proposed sanction and after opportunity to request a hearing before the Board.

B. The Board may impose any sanction authorized by the Act for any violation of any condition, restriction, or limitation imposed by the Board on a license or permit.

C. The Board may impose any sanction authorized by the Act for violation of the Casino Operator's or Casino Manager's Internal Controls as are Approved by the Division.

D. A sanction for purposes of this Section, subject to the rights in the Casino Operating Contract, includes, but is not limited to suspension, revocation, or cancellation of a license or permit, the imposition of a fine and such other costs as the Board deems appropriate, or the conditioning, limiting, or restricting of a license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999).

§2327. Proof of Compliance

A. If the Casino Operator, Casino Manager or any Permittee is served with a notice, issued by the Division, regarding a violation of the Act or the Regulations, the Casino Operator, Casino Manager or Permittee may submit proof of compliance with the Act and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999).

Chapter 25. Transfers of Interest in the Casino Operator and Permittees; Loans and Restrictions

§2501. Transfer of Interest, General

A. No person shall sell, assign, lease, grant, hypothecate, transfer, convey, purchase or acquire any interest of any sort whatsoever, or foreclose on a security interest in the Casino Operator or Casino Manager or any portion thereof, or enter into or create a voting trust agreement or any agreement of any sort in connection with any licensed gaming operation or any portion thereof, except in accordance with the Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999).

§2503. Disclosure of Representative Capacity

A. No Person shall transfer, assign, pledge or otherwise dispose of, or convey in any manner whatsoever, any ownership interest in the Casino Operator, Casino Manager to any Person acting as an agent, trustee or in any other representative capacity for or on behalf of another Person without having first fully disclosed all facts pertaining to such transfer and representation to the Board and Division. No Person acting in such representative capacity shall hold or acquire any such interest or so invest or participate without having first fully disclosed all facts pertaining to such representation to the Board and Division and having obtained Approval from the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999).

§2505. Transfer of Interest Prior to Approval

A. The sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of any equity interest in the Casino Operator or Casino Manager must receive prior Approval from the Board. Any sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of equity interest in the Casino Operator or Casino Manager that occurs without the prior Approval of the Board shall be void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999).

§2506. Notice of Alleged Significant Regulatory Violation—Application of Sanction to Transferee

A. In the event the Division institutes an action against the Casino Operator, Casino Manager or any Permittee which involves an alleged significant violation of the Gaming Act or any regulations promulgated thereunder, the Division may, at the time of filing the action or any time thereafter, file a Notice of Significant Violation in accordance with the terms of this Section. The filing of a Notice of Significant Violation shall serve as actual and constructive notice to any Person of the pending proceeding and bind them in accordance with Subsection C below.

B. The Division may apply to the hearing officer for the issuance of a Notice of Significant Violation. A Notice of Significant Violation shall issue upon the written application of the Division specifying facts establishing that there are reasonable grounds to believe that the Casino Operator, Casino Manager or Permittee has violated the Gaming Act or regulations promulgated thereunder and that such alleged violation could lead to a fine or the suspension or revocation of any License or Permit or the termination of any contract. If accepted by the hearing officer as complying with the terms of this Section, the Notice of Significant Violation shall be filed with the Board which shall maintain a separate Notice of Significant Violation index as a public record.

C. Any sale, assignment, transfer, pledge or disposition of an equity interest in the Casino Operator, Casino Manager or Permittee that takes place after the filing of the Notice of Significant Violation shall render the Person to whom the sale, assignment, transfer, pledge or disposition is made responsible and subject to any sanction subsequently imposed upon the Casino Operator, Casino Manager or Permittee based upon any conduct described in the Notice of Significant Violation.

D. If, after hearing, there is a determination that the grounds for the Notice of the Significant Violation do not exist, the Notice of Significant Violation shall be canceled and be of no further effect.

E. Nothing herein shall be construed to limit the Division or Board with respect to any other right or remedy provided by these Regulations or otherwise by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999).

§2507. Notification of Ownership Interest in Holding Company or Intermediary Company or Affiliate

A. The Casino Operator, Casino Manager or Affiliate, as the case may be, shall provide notice to the Board and Division within five (5) days after obtaining knowledge of the accumulation of an Ownership Interest of five percent (5%) or more in their respective Holding Company or Intermediary Company, or Affiliate.

B. Nothing herein, shall prevent the Board, in its sole discretion, from requiring any Person acquiring an Ownership Interest in the Casino Operator or Casino Manager, through a Holding Company or Intermediary Company, or Affiliate, to submit to a suitability examination consistent with the Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1920 (October 1999).

§2509. Procedure for Proposed Transfer

A. Any Person filing an Application for Approval of a transfer of any Interest required by this Chapter must provide the following to the Board and Division:

1. all Application forms, including personal history forms, required by the Division;
2. all documents which evince the transfer of the Interest including any financing agreements;
3. all documents which evince any side agreements or related agreements regarding the transfer any Interest;
4. all other documents the Division may deem necessary for a full and complete evaluation of the transferees' suitability to hold an Interest in the Casino Operator or Casino Manager.

B. All costs associated with the Division's investigation of the Application for a transfer will be borne by the Person seeking to acquire the Interest.

C. All Persons required to obtain Approval under this Chapter must meet the same suitability requirements as set forth in these Regulations. The Board shall give the Applicant and the Division notice of the granting of its Application for a transfer. The granting of an Application for a transfer by the Board may be subject to any condition,

limitation, or restriction in the same manner as the granting of the License or Permit. The Applicant shall indicate its acceptance of any condition, limitation, or restriction by documentation Approved by the Board.

D. An Applicant served with notice of recommendation of denial may make a written request for a hearing in the same manner as is provided in LAC 42:III.103. The hearing shall be conducted in the same manner as provided in LAC 42:III.103. The Applicant shall prove by clear and convincing evidence that he is qualified in accordance with the Act and the Regulations. Appeals of any action, order or decision of the Hearing Officer resulting from such a hearing shall be made to the Board as provided in the Act and these Regulations.

E. The notice required by this section shall be sent by certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1920 (October 1999).

§2511. Transfer of Interest To Non-Licensee or Non-Permittee

A. No Person who owns an Ownership Interest of five percent (5%) or more in the Casino Operator, the Casino Manager, a Holding Company or Intermediary Company of the Casino Operator shall contract to transfer a five percent (5%) or greater interest or such other interest that otherwise leads to a change of control without prior Approval of the Board. This subsection shall not apply to transfers of publicly-traded securities purchased on the various stock markets.

B. Prior to the consummation of any accumulation of transfers, wherein five percent (5%) or greater interest or such other interest that otherwise leads to a change of control is proposed to be transferred in the Casino Operator, Casino Manager, a Holding Company or Intermediary Company of the Casino Operator, the transfer(s) and transferee must be Approved by the Board. This subsection shall not apply to transfers of publicly-traded securities purchased on the various stock markets.

C. None of the transfers described in this section shall be effective for any purpose until the proposed transferee has applied for and obtained all licenses, permits or findings of suitability required by the Act and Regulations and until the transferee has been Approved by the Board.

D. An investigation of any such Application shall be conducted by the Board. Prior to the commencement of the investigation, or while the investigation is ongoing, the Board or Division may request such additional information or documentation as it deems necessary for a complete investigation of the Applicant. The Board may assess a fee to cover the costs of the investigation.

E. The proposed transfer shall be granted or denied in the same manner as provided in §2509 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1920 (October 1999).

§2512. Stock Restrictions

A. Unless otherwise expressly Approved by the Board, all ownership securities issued by the Casino Operator shall

bear on both sides of the certificate a statement of the restrictions containing the following inscription:

The purported sale, assignment, transfer, pledge or other disposition of this security must receive the prior Approval of the Louisiana Gaming Control Board. The purported sale, assignment, transfer, pledge or other disposition, of any security or shares issued by the entity issuing this security is void unless Approved in advance by the Louisiana Gaming Control Board. If at any time an individual owner of any such security is determined to be unsuitable under the Act and Regulations to continue as a Permittee or suitable Person, the issuing entity shall ensure that such Person or Persons may not receive any dividend or Interest upon any such security; exercise, directly or indirectly through any trustee or nominee, any voting right conferred by such security; receive remuneration in any form from the Casino Operator, Casino Manager, or Affiliates for services rendered or otherwise; receive any Economic Benefit from the Casino Operator, Casino Manager or Affiliates; or continue in an ownership or Economic Interest in the Casino Operator or function as a manager, officer, director or partner of the Casino Operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1920 (October 1999).

§2513. Emergency Situations

A. If the provisions of this Chapter applying to a Transfer of an Interest in the Casino Operator, Casino Manager, Permittee, or Person who is required to meet the suitability requirements of the Act and Regulations is contemplated, and in the opinion of the Board, the exigencies of the situation require that a proposed transferee be permitted to take part in the conduct of operations or to make available financing or credit for use in connection with such operation during the pendency of an Application for a License, Permit, or determination that the Applicant meets the suitability requirements of the Act and Regulations, then the Board may by Emergency Order implement the emergency procedures described in §2515 of these Regulations.

B. An emergency as used in this Chapter may be deemed to include, but is not limited to any of the following:

1. the Casino Operator, Casino Manager, Permittee or Person who was required to meet suitability requirements of the Act and Regulations has died or has been declared legally incompetent;
2. the Casino Operator, Casino Manager, Permittee or Person who was required to meet the suitability requirements of the Act and Regulations is a legal entity that has been dissolved by operation of law;
3. the Casino Operator, Casino Manager, Permittee or Person who was required to meet the suitability requirements of the Act and Regulations has filed a petition of bankruptcy, or in the opinion of the Board is or will likely become insolvent;
4. the License or Permit has been suspended or revoked;
5. a Person with an Interest in the Casino Operator, Casino Manager or a Permittee who was required to meet the suitability requirements of the Act and Regulations no longer meets the suitability requirements of the Act and Regulations;
6. the Casino Operator, Casino Manager, a Permittee, or Person who was required to meet the suitability requirements of the Act and Regulations or an Interest in the

Casino Operator or a Permittee is subject to foreclosure or other forced sale permitted by law.

7. any other emergency circumstance that is Approved by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1921 (October 1999).

§2515. Emergency Procedures

A. A proposed transferee who seeks to participate in an operation pursuant to an Emergency Order as provided in §2513 must submit a written request to the Board which shall contain the following:

1. a complete description of the extent to which and the manner in which the proposed transferee will participate in the operations pending the completion of the proposed transfer of an Interest;
2. a complete description of the plan for effecting the proposed transfer of the Interest;
3. a complete financial statement, including the sources for all funds to be used in the transfer and that will be used in the participation prior to the completion of the transfer;
4. full, true and correct copies of all documents pertaining to the proposed transfer, including but not limited to all agreements between the parties, leases, notes, mortgages or deeds of trust, and pertinent agreements or other documents with or involving third parties;
5. a complete description of any and all proposed changes in the manner or method of operations, including but not limited to the identification of all proposed changes of and additions to supervisory personnel;
6. all such additional documentation and information as may be requested by the Board; and
7. a certification that a copy of the request for emergency participation has been provided to the Board.

B. The proposed transferee must file a complete Application with the Board for Approval of the Transfer of the Interest and for any necessary License or Permit as provided in these Regulations within five days after an order for emergency participation has been issued. The Board may waive any or all of the requirements of this Paragraph upon written request of the proposed transferee with a showing of good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1921 (October 1999).

§2517. Emergency Permission To Participate; Investigation

A. After the proposed transferee has complied with the requirements of §2515, the Division shall determine if all the necessary documents and information have been provided by the Applicant for Approval for the transfer. If the Division determines all of the necessary documents and information have been provided by the proposed transferee, then the Division shall notify the proposed transferee of that fact in a manner deemed appropriate by the Board.

B. After the notice described in §2517.A has been provided to the proposed transferee, the Division shall commence the Background Investigation of the proposed

transferee. The Division may request such additional documents and information during the investigation as it deems necessary. Upon the conclusion of the Background Investigation, the Board may grant or deny the request for emergency participation. No hearing will be granted to review the denial of a request for emergency participation. Any conditions imposed by the Board on a proposed transferee must be accepted by the proposed transferee in a manner approved by the Board prior to the Board granting a request for emergency participation.

C. Emergency permission to participate shall be defined with respect to time, and must be limited as follows:

1. pending final action on the Application of a proposed transferee, the existing Casino Operator, Casino Manager, Permittee or Person who has met the suitability requirements of the Act and Regulations and the transferee Approved for emergency participation shall both be responsible for the payment of all taxes, fees and fines, and for acts or omissions of each.

2. no proposed transferee who has been granted emergency permission in writing to participate shall receive any portion of the Gross Gaming Revenue from the Gaming Operations or any profits from other operations of the Casino, or Permittee until final Approval of the proposed transfer of the Interest has been granted subject to the exception contained in §2517.C.3. If Approval is granted, such Approval shall be retroactive to the effective date of the emergency participation.

3. A proposed transferee who has been granted emergency permission to participate and who actually renders services to the Casino operation or the Permitted operation may be compensated for any services actually rendered, but such compensation is subject to prior written Approval by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1921 (October 1999).

§2519. Effect of Emergency Permission to Participate; Withdrawal

A. The granting of emergency permission to participate is a revocable privilege. The granting of emergency permission to participate is not a finding by the Board that the Applicant for emergency participation meets the suitability requirements of the Act and Regulations. Such emergency permission to participate is without prejudice to any action that the Division or the Board may take with respect to any Application for final Approval of the proposed transfer of the Interest. All emergency permissions to participate are subject to the condition that they may be revoked or suspended at any time without a right to a hearing to review the Board's decision. The provisions contained in this section are to be considered a part of any emergency participation granted by the Board, whether or not they are included in the order granting such emergency participation.

B. Upon notice that emergency permission to participate has been withdrawn, suspended, or revoked, the proposed transferee with such permission shall immediately terminate any participation whatsoever in the operations of the Casino Operator, Casino Manager, Permittee or Person required to meet the suitability requirements of the Act and Regulations.

Anything of value, including money, contributed to the operations of the Casino Operator, Casino Manager, Permittee or Person required to meet the qualification requirements and suitability requirements of the Act and Regulations shall be immediately returned to the proposed transferee. Non-compliance with this Section shall be considered a violation of the Act and of the Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1922 (October 1999).

§2521. Loans and Lines of Credit

A. No Casino Operator, Casino Manager, Permittee or Person on behalf of the Casino Operator, Casino Manager or Permittee shall borrow money, receive, accept, or make use of any cash, property, credit, line of credit, guarantee, or grant other form of security for any loan except in accordance with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1922 (October 1999).

§2522. Limitation on Financing; Incurring Debt

A. In accordance with Section 13.6 of the Casino Operating Contract, except as provided in §2523 and §2524 of these Regulations, the Casino Operator or its financing Affiliate may obtain debt only from a lender found suitable by the Board and only after obtaining Approval of the financing by the Board. Board Approval shall not be required for financing obtained from a lender previously found suitable by the Board or from a Lender who is a Suitable Lender as defined in the Casino Operating Contract if:

1. the principal amount of debt incurred in the financing does not exceed the sum of:

- a. debt retired with proceeds of financing;
- b. the projected cost of capital improvements to be funded with proceeds of the financing; and
- c. customary transaction costs relating to the financing; or

2. the Pre-Tax cash flow of the Casino Operator for the twelve month period ending on the last day of the calendar quarter preceding the calendar month in which the financing occurs is not less than one and twenty-five hundredths (1.25) times the amount of annual interest payable with respect to secured debt incurred in the financing.

B. The Casino Operator, any Holding Company or Intermediary Company thereof or the Casino Manager shall apply for prior Approval of any proposed Public Offering of any ownership Interest therein, and shall comply with all conditions imposed by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1922 (October 1999).

§2523. Board Actions Concerning Loans And Lines of Credit

A. Except as provided in §2522 of these Regulations, whenever the Casino Operator, Casino Manager, or Person acting on behalf of a Casino Operator, Casino Manager,

(*borrower* herein), applies for receives, accepts or modifies the terms of any loan, line of credit, third-party financing agreement, sale with buy-back or lease-back provisions or similar financing transaction, or makes use of any cash, property, credit, loan or line of credit, or guarantees, or grants other form of security for a loan, such borrower shall notify the Board in writing no less than sixty (60) days prior to such transaction, unless a different time period is Approved by the Board. Such notice shall include the following:

1. the names and addresses of all the parties to the transaction;
2. the amounts and sources of funds;
3. the property or credit applied for or received;
4. the nature and the amount of security provided by; or on behalf of the borrower or person required to meet the applicable suitability requirements of the Act and these Regulations:

5. the specific nature and purpose of the transaction;
6. such other information and documentation as the Board or Division may require.

B. The report described in Subsection A of this Section shall be signed under oath by the borrower, an authorized representative of the borrower, or Person required to meet the applicable suitability requirements of the Act and Regulations.

C. All transactions described in Subsection A of this Section require prior written Approval by the Board unless:

1. the amount of transaction does not exceed \$2,500,000 and all of the lending institutions involved therein are federally regulated financial institutions, or Suitable Lenders;

2. the loan amount of the transaction does not exceed \$1,000,000 and all of the lending entities are Suitable Lenders;

3. the transaction is exempted from the prior written Approval requirement pursuant to the provisions of Section 2524 of this Chapter;

4. the loan amount does not exceed \$500,000 and the transaction is one other than those described in Subsection C.1,2, or 3 of this Section;

5. the transaction modifies the terms of an existing loan or line of credit which has been previously Approved pursuant to this Section, and after preliminary investigation pursuant to Subsection D of this Section, the Board determines that the modification does not substantially alter such terms.

D. The Board, after preliminary review, shall determine whether the transaction is exempt from the requirement of prior written Approval, and shall notify the borrower of the determination.

E. In the event the transaction is not determined exempt pursuant to Subsection C, the Board shall render a decision Approving or Disapproving the transaction.

F. If the transaction is Disapproved, the decision of the Board shall be in writing and shall set forth detailed reasons for such Disapproval.

G. The Board may require that the transaction be subject to conditions which must be accepted by all parties prior to Approval. The acceptance of such conditions shall be in manner Approved by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1922 (October 1999).

§2524. Publicly Registered Debt and Securities

A. If the transaction described in §2523.A of this Chapter involves publicly registered debt and securities registered with the Securities and Exchange Commission (SEC), and sold pursuant to a firm underwriting understanding agreement, no Board Approval is required; however, in addition to filing the notice required in §2523.A and B, the borrower shall:

1. file with the Board, within one business day after filing with the SEC, copies of all registration statements and final prospectus with respect to such debt Securities and will give notice to the Division within one business day of the effectiveness of such registration statement; and

2. file a report with the Board within 45 days after the completion of sales under such registration, setting forth the amount of Securities sold and the identities of the purchasers thereof from the underwriters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1923 (October 1999).

§2527. Escrow Accounts

A. No money or other thing of value shall be paid to, remitted to, or distributed to, directly or indirectly to a proposed transferee, including a transferee with emergency permission to participate, until the Board has Approved the transfer and the transferee.

B. All money or other things of value to be paid to, remitted to, or distributed to, directly or indirectly to a proposed transferee, including a transferee with emergency permission to participate, shall be placed in escrow in a manner acceptable to the Board until the Board has Approved the transfer and the transferee.

C. Upon Approval of the transfer and the transferee, the money or other things of value held in escrow may be distributed to the transferee.

D. If the transfer or the transferee is Disapproved by the Board, any money or other thing of value placed in escrow shall be returned to the Person depositing the money or other thing of value in escrow.

E. A transferee with emergency permission to participate may be paid such compensation for services rendered as has been Approved by the Board in writing without such compensation being placed in escrow.

F. Any violation of this section shall be grounds to Disapprove the transfer or the transferee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1923 (October 1999).

§2529. Casino Operator Transfers—Casino Operating Contract

A. The Casino Operator shall not Transfer the Casino Operating Contract, or any interest therein or subcontract the performance of any of the Casino Operator's duties or obligations thereunder to any Person without first obtaining the Approval of the Gaming Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1923 (October 1999).

§2531. Casino Operator Transfers

A. Except a Transfer to a Leasehold Mortgagee in compliance with the Casino Lease or in connection with the Initial Plan Financing or other Approved financing or a transfer pursuant to Section 23.6(g) of the Casino Operating Contract, the Casino Operator shall not voluntarily or involuntarily Transfer the Casino Lease, or any interest therein to any Person without first obtaining the Approval of the Gaming Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1924 (October 1999).

§2701. Procedure for Reporting and Paying Gaming Revenues and Fees

A. All Daily Gaming Revenue 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 Casino Operator or Casino Manager's specified gaming day. For reporting purposes, Casino Operator or Casino Manager's specified gaming day (beginning time to ending time) shall be submitted in writing to the Division prior to implementation. The gaming day is the 24-hour period by which the Casino keeps its books and records for business, accounting, and tax purposes. The Casino Operator or Casino Manager shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted and approved by the Division ten (10) days prior to implementation of the change. Consistent with Section 6.5 of the Casino Operating Contract, all Louisiana Gross Gaming Revenue Share Payments must be electronically transferred to the State's designated bank account by 5:00 p.m. of the next business day following the close of that Casino Gaming Day. Interest shall be imposed on the late payment of fees at the Default Interest Rate as defined by the Casino Operating Contract. In addition to any other administrative action, civil penalties, or criminal penalties allowed by law, Casino Operators or Casino Managers who are late in electronically transferring these payments may retroactively be assessed late penalties after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act.

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 25:1924 (October 1999).

§2703. Accounting Records

A. The following requirements shall apply throughout all of Chapter 27.

1. The Casino Operator or Casino Manager, 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. Casino Operator or Casino Manager shall keep records of all transactions impacting the financial statements of the Casino Operator or Casino Manager, 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 or legible copies thereof. The Casino Operator or Casino Manager 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.

B. Casino Operator or Casino Manager 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:

1. detailed records identifying:
 - a. revenues by day;
 - b. expenses;
 - c. assets;
 - d. liabilities;
 - e. equity for the establishment;
 - f. number of gaming patrons, or reasonable estimates thereof, as approved by the Division.
2. detailed records of all markers, IOU's, returned checks, hold checks, or other similar credit instruments;
3. 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;
4. slot analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages;
5. for the Casino Operator or Casino Manager, the records required by the Casino Operator or Casino Manager's system of internal control;
6. journal entries and all workpapers (electronic or manual) prepared by the Casino Operator or Casino Manager and its independent accountant;
7. 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 expended at an amount based upon the full cost of such services or items to the Casino Operator or Casino Manager;
8. 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;
9. workpapers supporting the daily reconciliation of cash and cash equivalent accountability;
10. financial statements and supporting documents; and
11. any other records that the Division specifically requires be maintained.

C. The Casino Operator or Casino Manager shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its gaming operations.

D. If the Casino Operator or Casino Manager fails to keep the records used by it to calculate gross and net gaming revenue, or if the records kept by the Casino Operator or Casino Manager 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.

E. 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 25:1924 (October 1999).

§2705. Records of Ownership

A. The Casino Operator or Casino Manager shall keep on the premises of its gaming establishment, or other premises as approved by the Division, the following documents pertaining to the corporation:

1. a certified copy of the articles of incorporation and any amendments;
2. a copy of the bylaws and any amendments;
3. a copy of the certificate issued by the Louisiana Secretary of State authorizing the corporation to transact business in Louisiana;
4. a list of all current and former officers and directors;
5. a certified copy of minutes of all meetings of the stockholders;
6. a certified copy of minutes of all meetings of the directors;
7. a list of all stockholders listing each stockholder's name, birth date, social security number, address, the number of shares held, and the date the shares were acquired;
8. the stock certificate ledger;
9. a record of all transfers of the corporation's stock;
10. a record of amounts paid to the corporation for issuance of stock and other capital contributions; and
11. a schedule of all salaries, wages, and other remuneration (including perquisites), direct or indirect, paid during the calendar or fiscal year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to five percent (5%) or more of the outstanding capital stock of any class of stock.

B. Each limited liability company Casino Operator or Casino Manager 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 Casino Operator or Casino Manager 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 Casino Operator or Casino Manager 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 25:1925 (October 1999).

§2707. Record Retention

A. Upon request, the Casino Operator or Casino Manager shall provide the Division, at a location approved by the Division, with the records required to be maintained by Chapter 27. The Casino Operator or Casino Manager 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 25:1925 (October 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 Casino Operator or Casino Manager. The Casino Operator or Casino Manager shall prepare their financial statements in accordance with this chart or in a similar form that reflects the same information.

B. The Casino Operator or Casino Manager 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. The Casino Operator or its holding company or intermediary company 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 Casino Operator or its holding company or intermediary company 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 25:1925 (October 1999).

§2711. Audited Financial Statements

A. The Casino Operator or Casino Manager 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 Casino Operator or Casino Manager'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 Casino Operator or Casino Manager's business year as approved by the Division. If the Casino Operator or Casino Manager or a person controlling, controlled by, or under common control with the Casino Operator or Casino Manager owns or operates food, beverage or retail facilities or 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, or other person as approved by the Division.

C. All of the audits and reports required by this Section shall be prepared at the sole expense of the Casino Operator or Casino Manager.

D. Casino Operator or Casino Manager shall engage an independent Certified Public Accountant (CPA) either one of the six largest accounting firms having a national practice in the United States of America or another accounting firm that is selected by the Casino Operator and approved by the Board. The independent CPA shall be licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The Casino Operator or Casino Manager may select the independent CPA with the Division's Approval. Should the independent CPA, previously engaged as the principal accountant to audit the Casino Operator or Casino Manager's financial statements, resign or be dismissed as the principal accountant or if another CPA is engaged as principal accountant, the Casino Operator or Casino Manager 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. the date of the resignation, dismissal, or engagement;
2. any disagreements with a former accountant, in connection with the audits of the two most recent years, on any matter of accounting principles, or practices, financial statement disclosure, auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreement; including a description of each such disagreement; whether resolved or unresolved;
3. whether the principal accountant's report on the financial statements for any of the past two (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 Casino Operator or Casino Manager and addressed to the Division stating whether he agrees with the statements made by the Casino Operator or Casino Manager in response to this Section of the Casino Operator or Casino Manager'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. The Casino Operator or Casino Manager 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, unless a shorter time period is mandated by the Casino Operating Contract, after the last day of the Casino Operator or Casino Manager'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 Casino Operator or Casino Manager or former Casino Operator or Casino Manager 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 Casino Operator or Casino Manager may submit statements covering both the business year and the final period of business.

G. If a Casino Operator or Casino Manager changes its fiscal year, the Casino Operator or Casino Manager 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 Casino Operator or Casino Manager's financial statements must be submitted within one-hundred twenty (120) days after the end of the Casino Operator or Casino Manager's business year. The CPA shall incorporate the guidelines established by the Division into current procedures for preparing the reports.

I. The Casino Operator or Casino Manager shall engage an independent CPA to conduct a quarterly audit of the Gross Gaming Revenue. 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 Casino Operator or Casino Manager or the Casino Operator or Casino Manager's independent CPA, through the Casino Operator or Casino Manager, regarding the financial statements or the services performed by the accountant.

K. The Casino Operator or Casino Manager shall submit to the Division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier, any audit report prepared by the Internal Revenue Service.

L. 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:
 - a. general partner; and
 - b. financial director;
3. if from a sole proprietorship:
 - a. proprietor;
4. if from any other form of business association:
 - a. Chief Executive Officer; or
 - b. other person as 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 25:1926 (October 1999).

§2713. Cash Reserve Requirements; General

A. The Casino Operator or Casino Manager shall maintain in cash or cash equivalent amounts sufficient to protect patrons against defaults in gaming debts owed by the Casino Operator or Casino Manager.

B. Casino Operator or Casino Manager shall 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 Casino Operator or Casino Manager receives the Division's written Approval.

C. The Casino Operator or Casino Manager shall submit monthly calculations of its cash reserve to the Division no later than thirty (30) days following the end of each month.

D. Cash equivalents are defined as all highly liquid investments with an original maturity of 12 months or less and available unused lines of credit issued by a federally regulated financial institution as permitted in Chapter 25 and approved pursuant to that Chapter. Approved lines of credit shall not exceed fifty percent (50%) of the total cash reserve requirement. Any changes to the initial computation submitted to the Division shall require the Casino Operator or Casino Manager 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.).

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 25:1927 (October 1999).

§2715. Internal Control; General

A. Casino Operator or Casino Manager shall establish and implement beginning the first day of operations, administrative and accounting procedures for the purpose of determining the Casino Operator or Casino Manager's liability for revenues and fees under the Act and for the purpose of exercising effective control over the Casino Operator or Casino Manager's internal fiscal affairs. Each Casino Operator or Casino Manager shall adhere to the procedures established and implemented under the requirements of this Section of the Administrative Rules and Regulations. The procedures shall be implemented to reasonably ensure that:

1. all assets are safeguarded;
2. financial records are accurate and reliable;
3. transactions are performed only in accordance with the Casino Operator or Casino Manager's internal controls as approved by the Division;
4. transactions are recorded adequately to permit proper reporting of gaming revenue, fees and taxes, and all revenues deriving from the Casino and related facilities and to maintain accountability for assets;
5. access to assets is permitted only in accordance with the Casino Operator or Casino Manager's internal controls as approved by the Division;
6. recorded accountability for assets is compared with actual assets at least annually and appropriate action is taken with respect to any discrepancies;
7. functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel;
8. sensitive keys are maintained in a secure area that is subject to surveillance as follows:
 - a. all restricted sensitive keys shall be stored in an immovable dual lock box;
 - b. one key shall open only one lock on the dual lock box;
 - c. a dual key system shall be implemented wherein both keys are required to open the dual lock box and shall not be issued to different employees in the same department;
 - d. an employee shall be issued only a single key to the dual lock box; and
 - e. there shall be a surveillance camera monitoring the dual lock box at all times;
9. restricted sensitive keys are properly secured. Restricted sensitive keys shall be defined as those keys which can only be reproduced by the manufacturer of the lock or its authorized agent. These keys shall be stored in the 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 room storage keys;
 - k. slot office storage box keys;
 - l. dual lock box keys;
 - m. change bank/booth keys;
 - n. secondary chip access keys;
 - o. weight calibration key;
10. the keys included in Subsection 9 above, shall be stored in the 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;
11. all other sensitive keys not listed in §2715.A.9 are listed in the Casino Operator or Casino Managers' internal controls and are controlled as prescribed therein;

12. all damaged sensitive keys are disposed of timely and adequately. The Casino Operator or Casino Manager shall notify the Division. Notification shall include type of key(s), number of key(s), and the place and manner of disposal;

13. 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 Casino Operator or Casino Manager's internal controls as approved by the Division;

14. only transparent trash bags are utilized in the restricted areas set forth in §2945 of these Regulations.

B. The Casino Operator or Casino Manager 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. The Casino Operator or Casino Manager 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 Casino Operator or Casino Manager'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. of these Regulations;
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 Casino Operator or Casino Manager or a licensed owner attesting that the system satisfies the requirements of this Section;
6. other information as the Division may require.

C. The Casino Operator or Casino Manager may not implement its initial system of internal control procedures unless the Division, in its sole discretion, determines that the Casino Operator or Casino Manager's proposed system satisfies §2715.A of these Regulations, and approves the system in writing. In addition, the Casino Operator or Casino Manager 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 Casino Operator or Casino Manager, the parent company of the Casino Operator or Casino Manager, 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. The Casino Operator or Casino Manager shall require the independent CPA engaged by the Casino Operator or Casino Manager for purposes of examining the financial statements to submit to the Casino Operator or Casino Manager two (2) originally signed copies of a written report of the continuing effectiveness and adequacy of the Casino Operator or Casino Manager's written system of internal control one hundred fifty (150) days after the end of the Casino Operator or Casino Manager'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 Casino Operator or Casino Manager's fiscal year, the Casino Operator or Casino Manager shall submit an originally signed copy of the CPA's report and any other correspondence directly relating to the Casino Operator or Casino Manager's system of internal control to the Division accompanied by the Casino Operator or Casino Manager'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 Casino Operator or Casino Manager 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 Casino Operator or Casino Manager'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 Casino Operator or Casino Manager'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 Casino Operator or Casino Manager's administrative or accounting procedures or its internal controls do not comply with the requirements of this Section, the Division shall so notify the Casino

Operator or Casino Manager in writing. Within thirty (30) days after receiving the notification, the Casino Operator or Casino Manager 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 Casinos are given advance information, regarding the dates or times of such observations.

J. Except as otherwise provided in this Section, no Casino Operator or Casino Manager 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. The Casino Operator or Casino Manager 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 with thirty (30) days, the Casino Operator or Casino Manager shall not further extend credit to the patron while such debt is outstanding.

N. The Casino Operator or Casino Manager shall be responsible for pursuing 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 Casino Operator or Casino Manager 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. The Casino Operator or Casino Manager shall submit to the Division, on a quarterly basis, a listing of all vendors who have received \$5,000 or more from the Casino Operator or Casino Manager 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 Casino Operator or Casino Manager. This list 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 Casino Operator or Casino Manager, or person(s) acting on

their behalf. This report shall be received by the Division no later than the last day of the month following the quarter being reported. For each provider of professional services listed, the Casino Operator or the Casino Manager 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 Casino Operator or the Casino Manager, or any person(s) acting on behalf of the Casino Operator or the Casino Manager. 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.

Q. The Casino Operator or Casino Manager 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 25:1927 (October 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. Cage employees shall not bring purses, handbags, briefcases, bags or any other similar item into the cage unless it is transparent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, 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 25:1930 (October 1999).

§2717. Internal Controls; Table Games

A. Table Games Fill and Credit Slip Requirements (Computerized and Manual). The Casino Operator or Casino Manager 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, 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 manual slips and slip processing areas shall be restricted to authorized personnel.

a. All manual unissued fill/credit slips shall be securely stored under the control of the accounting or security department.

b. All manual 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 runner who shall be a gaming employee 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 runner who shall be a gaming employee 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 Casino Operator or Casino Manager'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. Proper authorization of credit extension in excess of the previously established limit shall be documented.

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 the 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, date; and
- c. 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 clear carbon copy signature of the individual extending the credit, and the clear carbon copy 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. Nonmarker credit play shall be prohibited except as provided in this Section.

2. Prior to the transacting of credit instruments (except traveler's checks) with a player, the employee extending the

credit shall contact the cashier or another independent source to determine if the player's credit limit has been properly established and the remaining credit available is sufficient for the advance.

3. All credit instruments shall be transferred to the cashier's cage immediately following the acceptance of the instrument and issuance of chips.

4. An order for credit shall be completed which includes the patron's name and amount of the credit instrument in addition to the information required for a standard table credit.

5. The standards used for table credits shall be strictly adhered to for *name credits*, where applicable, including patron's name and amount of credit instrument.

6. The acceptance of payments in the pit for nonmarker credit instruments shall be strictly prohibited.

7. All nonmarker credit play shall be evidenced by the placement of a lammer or other identifiable designation in an amount equal to the wager.

8. The dealer shall place the lammer in the wagering area of the table only after the supervisor's specific authorization.

9. Nonmarker credit extensions shall be settled at the end of each hand of play by the preparation of a marker or payoff of the wager.

10. There shall be no other extension of credit without a marker.

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 Casino Operator or Casino Manager 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 following the emergency. 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 table 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 count sheet, 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. 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 table games 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;

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 rack 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 Casino. 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, due to unforeseeable circumstances, 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 of these Regulations.

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. The Casino Operator or Casino Manager 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 results of such investigations are documented in writing and maintained for at least five (5) years by the Casino Operator or Casino Manager. The *base level* is defined as the Casino Operator or Casino Manager's statistical win to statistical drop percentage for the previous business year. For the initial year only, the *base level* shall be

defined in the Casino Operator or Casino Manager's internal controls, subject to the Approval of the Division.

P. Accounting and MIS Training. Accounting and MIS personnel who perform table game computer functions shall be trained as Approved by the Division. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive internal controls regarding training procedures which shall include, but are not limited to the following:

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 monthly. 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 Casino Operator or Casino Manager shall change passwords periodically, as specified in the Casino Operator or Casino Manager'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 25:1930 (October 1999).

§2719. Internal Controls; Handling of Cash

A. Each gaming employee, owner, or Casino Operator or Casino Manager 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 Casino Operator or Casino Manager'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 25:1935 (October 1999).

§2721. Internal Controls; Tips or Gratuities

A. No gaming employee other than slot gaming employees, change persons, cashiers, and bar tenders shall accept currency as a tip or gratuity from any patron, during or outside a shift unless immediately converted into value chips. Security personnel may accept currency as a tip or gratuity only outside the designated gaming areas in the Casino.

B. No gaming operation key employee or boxperson, floorperson or any other gaming operation employee who serves in a supervisory position shall solicit or accept, any tip or gratuity from any player or patron of the gaming operation where he is employed. The Casino Operator or Casino Manager shall not permit any practices prohibited by Subsection A of this Section.

C. All tips and gratuities given to gaming employees other than slot gaming employees shall be:

1. immediately deposited in a transparent locked box reserved for that purpose. If non-value chips are received at a roulette table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer, in the presence of a supervisor, has converted them into value chips which are immediately deposited in a transparent locked box reserved for that purpose;

2. accounted for by a recorded count conducted by both of the following:

a. a randomly selected dealer and a randomly selected employee who is independent of the tips being counted, excluding the employees referenced in §2721 A of these Regulations.

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 Casino Operator or Casino Manager's payroll account. Distributions to dealers from this pool shall be made following the Casino Operator or Casino Manager's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes; and

4. The Casino Operator or Casino Manager may elect to handle tips generated in its poker room separately from the pro rata distribution pool. Tips or gratuities may be

assigned to the dealer generating said tip or gratuity, and the following procedures shall be used:

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. When a poker dealer arrives at their assigned poker table, the dealer and the keyholder shall obtain the dealer's marked transparent locked box from the locked storage cabinet. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table for any reason, the dealer's marked box shall be removed from the table by the dealer and the keyholder and returned to the storage cabinet.

c. At the end of the dealer's shift, the dealer along with an independent verifier (an employee independent of the table games and cage departments), shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer and the independent verifier. The amount shall be recorded on a three part voucher, and signed by the cage employee, the dealer, and the independent verifier. The three parts of the voucher shall be distributed as follows:

- i. one part shall be given to the dealer for their personnel records;
- ii. one part shall be maintained by the cage;
- iii. one part shall be forwarded to the payroll department.

d. Tips or gratuities counted above shall be deposited into the Casino Operator or Casino Manager's payroll account. Distribution to the dealer for the tips or gratuities earned by the dealer at poker tables shall be made in accordance with the Casino Operator or Casino Manager's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No distributions shall be made to the dealer in any other manner.

e. At a poker room dealer's option, a poker room dealer may tip any cashier working as the poker room cashier during the poker room dealer's shift. Any such tip shall be handled when the poker room dealer's tips are counted as defined above. A section of the dealer's tip voucher shall be marked to allow the dealer to indicate which cashier(s) the dealer wishes to tip and the amount of said tip. The tip shall be deducted from the dealer's total tips at the time of the count. Tips given to a cashier in this manner shall be distributed to the cashier in accordance with the Casino Operator or Casino Manager's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No tips from a poker room dealer shall be made to a cashier in any other manner.

f. Surveillance shall have the capability 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 25:1935 (October 1999).

§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 Casino Operator or Casino Manager'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. The Casino Operator or Casino Manager 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, 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 during which 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, only 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 Casino Operator or Casino Manager 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. The Casino Operator or Casino Manager 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, 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 auxiliary or emergency 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. The Casino Operator or Casino Manager 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 Casino Operator or Casino Manager 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 Casino Operator or Casino Manager'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 following the emergency drop. 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. The Casino Operator or Casino Manager 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 Casino Operator or Casino Manager's drop shall include both drop buckets and currency acceptor drop boxes of all slot machines.

K. The contents of the slot drop shall be counted in a hard count room according to a schedule, submitted to the Division, setting forth the specific times for such counts.

1. The issuance of the hard count room key, shall be witnessed by two gaming employees, who shall be from different departments. Neither of these two employees shall be members of the count team.

2. Access to the hard count room during the slot count shall be restricted unless three count team members are present. All persons exiting the count room, with the exception of Division Agents, shall be wanded by Security with a properly functioning hand-held metal detector (wand). A log shall be maintained in the count room and shall contain the following information:

- a. name of each person entering the count room;
- b. reason each person entered the count room;
- c. date and time each person enters and exits the count room;
- d. date, time and type of any equipment malfunction in the count room; and

e. a description of any unusual events occurring in the count room.

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the Division. At least one surveillance or internal audit employee shall monitor the count process at least two randomly selected days per calendar month. This employee shall record on the surveillance log the times that the count process begins and ends, as well as any exceptions or variations to established procedures observed during the count, including each time the count room door is opened. Surveillance shall notify the count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner.

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 table at a minimum of once per quarter. 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 of these Regulations shall be utilized.

M. The Casino Operator or Casino Manager 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.

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, due to unforeseen circumstances, 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 Casino. 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, due to unforeseen circumstances, 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. The Casino Operator or Casino Manager 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. Surveillance shall notify the count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner.

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 Casino 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 Casino Operator or Casino Manager 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 polices 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 shift. 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. The Casino Operator or Casino Manager 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 Casino Operator or Casino Manager'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 Casino Operator or Casino Manager's contributions shall not be reported to the Division upon payout. Casino Operators or Casino Managers shall take their deductions, which are specified on the primary and secondary contribution reports from the manufacturer, on the fifteenth (15th) of every month for the previous month's jackpots;

e. detailed jackpot payout procedures for all types of jackpots;

f. service and maintenance parameters as set forth in contractual agreements between the Casino Operator or Casino Manager 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. The Casino Operator or Casino Manager shall have a designated instructor responsible for training additional personnel. The designated instructor shall meet the following requirements:

a. shall be a full-time employee of the Casino Operator or Casino Manager; and

b. shall be certified as an instructor by the manufacturer and/or its representative.

4. The Casino Operator or Casino Manager 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 25:1936 (October 1999).

§2724. Reserved.

§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 25:1944 (October 1999).

§2729. Internal Controls; Cage, Vault and Credit

A. The Casino Operator or Casino Manager 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. The log shall include the following:

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 fifty dollars (\$50.00) or greater shall be investigated and the results maintained for five (5) years.

C. Increases and decreases to the cage inventory shall be supported by written documentation.

D. Open cage windows and vault including the coin room inventories shall be counted by outgoing and incoming cashiers and recorded at the end of each shift during which any activity took place, or at least once per gaming day. This documentation shall be signed by each person who counted the inventory. In the event there is a variance which cannot be resolved, a supervisor shall verify/sign the documentation.

E. All net changes in outstanding 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 Casino Operator or Casino Manager 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. The Casino Operator or Casino Manager 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 Casino Operator or Casino Manager that extended gaming credit to the patron that the patron has previously paid substantially all of the debt to the other Casino Operator or Casino Manager and the Casino Operator or Casino Manager 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 Casino Operator or Casino Manager shall receive in writing, information from an agent or employee of the Casino Operator or Casino Manager who has personal knowledge of the patron's credit reputation or

financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal;

7. In the case of personal checks, examine and record the patron's valid driver's license or, if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks, and document one of the credit checks set forth in Paragraphs 1-6.

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 Casino Operator or Casino Manager 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 Casino Operator or Casino Manager'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 of these Regulations 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 of these Regulations.

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 of these Regulations.

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 of these Regulations.

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 25:1944 (October 1999).

§2730. Exchange of Tokens and Chips

A. The Casino Operator or Casino Manager may exchange a patron's tokens and chips issued by another Casino Operator or Casino Manager only for its own tokens and chips. A Casino Operator or Casino Manager shall not exchange tokens and chips issued by another Casino Operator or Casino Manager for cash. A Casino Operator or Casino Manager shall document the exchange in a manner approved by the Division.

B. The exchange shall occur at a Casino cage designated by the Casino Operator or Casino Manager in its internal controls and approved by the Division.

C. The total dollar value of the chips or tokens submitted by a patron for exchange shall equal the total dollar value of the tokens or chips issued by the Casino Operator or Casino Manager to the patron. Tokens and chips shall not be exchanged for a discount or a premium.

D. All tokens and chips received by a Casino Operator or Casino Manager as a result of an exchange authorized by this Section shall be returned to the issuing Casino Operator or Casino Manager 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 the issuing and receiving Casino Operator or Casino Manager shall document the redemption in a manner approved by the Division.

E. A Casino Operator or Casino Manager shall not accept tokens or chips issued by another Casino Operator or Casino Manager in any manner other than authorized in this Section. A Casino Operator or Casino Manager shall not knowingly accept as a wager any token or chip issued by another Casino Operator or Casino Manager.

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 25:1947 (October 1999).

§2731. Currency Transaction Reporting

A. Casino Operator or Casino Manager shall be responsible for proper reporting of certain monetary transaction to the federal government as required by the Bank Records & Foreign Transactions Act (Public Law 91-508), commonly referred to as the *Bank Secrecy Act* as codified in Title 31 Section 5311 through 5323, and Title 12 Sections 1730 d, 1829, and 1951 through 1959. Specific requirements concerning record keeping and reports are delineated in title 31 CFR 103 and shall be followed in their entirety. The *Bank Secrecy Act* and the rules and regulations promulgated by the federal government pursuant to the *Bank Secrecy Act* as they may be amended from time to time, are adopted by reference and are to be considered incorporated herein.

B. Civil and/or criminal penalties may be assessed by the Federal Government for willful violations of the reporting requirements of the Bank Secrecy Act. These penalties may be assessed against the Casino Operator or Casino Manager, as well as any director, partner, official or employee that participated in the above referenced violations.

C. All employees of the Casino Operator or Casino manager shall be prohibited from providing any information or assistance to patrons in an effort to aid the patron in circumventing any, and all currency transaction reporting requirements.

D. Casino Operator or Casino Manager employees shall be responsible for preventing a patron from circumventing the currency transaction reporting requirements if the employee has knowledge or through reasonable diligence in performing their duties should have knowledge of the patron's efforts at circumvention.

E. For each required Currency Transaction Report, a clear surveillance photograph of the patron shall be taken and attached to the Casino Operator or Casino Manager'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, if available, of the patron may be used to supplement the required photograph taken. The Casino Operator or Casino Manager 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. The Casino Operator or Casino Manager shall be responsible for maintaining a single log which aggregates all transactions in excess of \$2,500 from the various multiple transaction log as follows.

1. All cash transactions in excess of \$2,500 shall be recorded on a multiple transaction log for aggregation of the multiple transactions and signed by the employee handling the transaction. Records of the aforementioned transactions must be aggregated on the single log required by this Section.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name and physical description of the patron.

4. Once any patron's cash activity has exceeded \$2,500, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the pit and cage shall coordinate their efforts to reasonably ensure all cash transactions in excess of \$2,500 are properly logged and aggregated.

6. Personnel of the pit and cage shall coordinate their efforts to reasonably ensure any required Currency Transaction Reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

H. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

I. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until such time that the required information is provided.

J. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, 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 25:1947 (October 1999).

§2735. Gross Gaming Revenue Computations

A. For each table game, Gross Gaming Revenue shall equal the soft count drop (cash and credit), plus or minus the change in table inventory, plus or minus the chip float adjustment. The change in table inventory shall be equal to the beginning table inventory, plus chip fills to the table, less credits from the table, less ending table inventory. The first step in the calculation of the chip float adjustment shall be the daily chip float calculation which shall be the total chips received to date (i.e., the initial chips received from vendors plus all subsequent shipments of chips received) less the

total day's chip count (i.e., the sum of chips in the vault, cage drawers, tables, change lockers and all other locations). The daily ending inventory chip count shall at no time exceed the total amount of chips in the total casino chip accountability. If at any time the calculated daily chip float is less than zero, the Casino Operator or Casino Manager shall adjust to reflect a zero current day chip float. Afterwards, the chip float adjustment shall be calculated daily by subtracting the previous day's chip from the current day's chip float.

B. For each slot machine, Gross Gaming Revenue 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 Casino Operator or Casino Manager 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. For each card game and any other game in which the Gross Gaming Revenue is not a party to a wager, Gross Gaming Revenue shall equal all money received by the Casino Operator or Casino Manager as compensation for conducting the game, including time buy-ins. A time buy-in is a fixed amount of money charged for the right to participate in certain games for a period of time.

D. If in any day the amount of net gaming proceeds is less than zero, the Casino Operator or Casino Manager 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 Gross Gaming Revenue, unless otherwise approved by the Division.

F. The value of chips or tokens issued to a Patron upon extension of credit, the receipt of a check or other instrument or via a complimentary distribution program shall be included in the computation of Gross Gaming Revenue, subject to §2736 A. of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, 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 25:1948 (October 1999).

§2736. Treatment of Credit for Computing Gross Gaming Revenue

A. Gross Gaming Revenue shall not include credit extended or collected by the Casino Operator or Casino Manager for purposes other than gaming. Gross Gaming Revenue shall include the amount of gaming credit extended to a Patron when wagered, subject to a deduction for credit instruments and checks which are uncollectable subject to an annual cap of uncollected credit instruments and checks of four percent (4%) of the total receipts of the Casino Operator from gaming operations, including all cash, checks, property and credit extended to a Patron for purposes of gaming in a fiscal year.

B. The Casino Operator or Casino Manager shall include in Gross Gaming Revenue 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. The Casino Operator or Casino Manager shall include in Gross Gaming Revenue the unpaid balance of a credit instrument even if the Casino Operator or Casino Manager eventually settles the debt for less than its full amount. The settlement shall be authorized by a person designated to do so in the Casino Operator or Casino Manager'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 Casino Operator or Casino Manager'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 Casino Operator or Casino Manager's attempt to obtain the Patron's signature.

D. The Casino Operator or Casino Manager shall include in Gross Gaming Revenue all money, and the net fair market value of property or services received by the Casino Operator or Casino Manager in payment of credit instruments unless the full dollar amount of the credit instrument was previously included in the calculation of Gross Gaming Revenue.

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 25:1949 (October 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 25:1949 (October 1999).

§2741. Petitions for Redetermination; Procedures

A. The Casino Operator or Casino Manager filing a petition for redetermination with the Board shall serve a copy of the petition on the Division.

B. The Casino Operator or Casino Manager 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 Casino Operator or Casino Manager's memorandum, file a memorandum of points and authorities in opposition to the Casino Operator or Casino Manager's petition and shall serve a copy on the Casino Operator or Casino Manager. The Casino Operator or Casino Manager may, within fifteen (15) days after service of the Division's memorandum, file a reply memorandum.

D. The Division and the Casino Operator or Casino Manager 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 Casino Operator or Casino Manager 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 25:1949 (October 1999).

§2743. Claims for Refunds; Procedures

A. The Casino Operator or Casino Manager filing a claim for refund with the Board shall serve a copy of the claim on the Division.

B. The Casino Operator or Casino Manager 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 Casino Operator or Casino Manager'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 Casino Operator or Casino Manager's memorandum, file a memorandum of points and authorities in opposition to the Casino Operator or Casino Manager's claim and shall serve a copy on the Casino Operator or Casino Manager. The Casino Operator or Casino Manager may, within fifteen (15) days after service of the Division's memorandum, file a reply memorandum.

D. The Division and the Casino Operator or Casino Manager 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 25:1949 (October 1999).

§2744. Reserved.

§2745. Reserved.

§2747. Reserved.

Chapter 29. Operating Standards

§2901. Methods of Operation Generally

A. It is the policy of the Board to require that the Casino, wherein gaming is conducted, be operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana and in a manner that will foster and promote economic development and growth of the tourism industry within the State of Louisiana.

B. Responsibility for the employment and maintenance of suitable methods of operation rests with the Casino Operator, Casino Manager or Permittee, as the case may be, and willful or persistent use or toleration of methods of operation deemed unsuitable is grounds for disciplinary action.

C. The Board may deem any activity on the part of the Casino Operator, Casino Manager, Licensee or Permittee, their agents or employees that is inimical to the public health, safety, morals, good order and general welfare of the people of the State of Louisiana or that would reflect or tend to reflect discredit upon the State of Louisiana or the tourism industry to be an unsuitable method of operation and grounds for disciplinary action.

D. The Casino Operator shall be responsible, in addition to the Casino Manager, for all reporting and Approval obligations imposed upon the Casino Manager by these Regulations or assumed by the Casino Manager in connection with the Casino Management Agreement.

E. Consistent with Section 17.1 of the Casino Operating Contract, the Casino Operator shall deliver updated copies of the scale drawings to the Board as changes are made in the use of any room or enclosed area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999).

§2903. Compliance With Laws

A. Acceptance of a License or Permit or renewal thereof constitutes an agreement on the part of the Licensee or Permittee to be bound by all of the applicable provisions of the Act and the Regulations. It is the responsibility of the Licensee or Permittee to keep informed of the content of all such laws, and ignorance thereof will not excuse violations. Violation of any applicable provision of the Act, the Regulations of the Board or Regulations of the Division by a Licensee or Permittee or by the agent, employee or representative of a Licensee or Permittee is contrary to the public health, safety, morals, good order and general welfare

of the inhabitants of the State of Louisiana and constitutes grounds for enforcement action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999).

§2905. Distributions

A. The Casino Operator shall submit to the Division a report for each Fiscal quarter reflecting intercompany financial transactions between any Intermediary and Holding Companies, and any subsidiaries thereof. The quarterly report shall set forth any intercompany flow of funds and any intercompany loan(s).

B. Other than repayment of debt that has been Approved by the Board (or that is otherwise deemed Approved by these Regulations) or transactions that are included in the quarterly report required by Subsection A above, the Casino Operator or, if such company is owned by a Holding Company, any Holding Company thereof, shall provide written notice to the Division within five (5) Days of the following transactions:

1. any dividend or other distribution of capital in excess of five percent (5%) of the Casino Operator's Gross Gaming Revenue for the preceding twelve month period;

2. the granting of any loan or any other extension of credit in excess of five percent (5%) of the Casino Operator's Gross Gaming Revenue for the preceding twelve month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999).

§2907. Reporting

A. The Casino Operator and Casino Manager shall provide the Division with a quarterly listing of all gaming vendors and all non-gaming vendors they conduct business with, subject to the monetary thresholds in §2715.P of these Regulations on a form prescribed or Approved by the Division.

B. The Casino Operator or Casino Manager shall file a monthly report in writing within ten (10) days following the end of each month regarding certain recommendations or solicitations to purchase goods or services. The Casino Operator or Casino Manager must include any recommendation or solicitation in the report when:

1. the recommendation or solicitation is to purchase goods or services, either directly or indirectly, from a particular vendor which:

a. exceeds \$5,000; or

b. exceeds \$10,000, when cumulated with other recommendation or solicitations made during a calendar year, to purchase from the same vendor; and

2. the recommendation or solicitation is made by or is received from, either directly or indirectly, a person or entity not employed by the vendor for the principal purpose of soliciting or recommending such purchase from the vendor in the ordinary course of business.

C. Any indirect solicitation or recommendation occurs when the Casino Operator or Casino Manager has reasonable grounds to believe that the goods or services to be provided by a particular vendor will actually be provided

to that vendor by another vendor, or when a particular person solicits or recommends on behalf of a disclosed or undisclosed third person. The written report shall provide:

1. the name of the persons or entity making such recommendation or solicitation, and if known, the address and telephone number;

2. the vendor on whose behalf the recommendation or solicitation is made, and if known, the address and telephone number;

3. the name of the person soliciting or recommending on behalf of a third person, the name of the third person and if known, the address and telephone number of both.

D. The Casino Operator or Casino Manager shall also report any recommendation or solicitation received by the Casino Operator or Casino Manager under circumstances in which a reasonable person would perceive there to be pressure or intimidation of any kind, or other conduct not customary in an ordinary business transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999).

§2909. Prohibited Transactions

A. The Casino Operator and Casino Manager shall not conduct business with any vendors required to be Permitted, by the Act or these Regulations, that does not possess a valid Permit. The Casino Operator or Casino Manager shall not conduct business with any Non - Gaming Vendor who has been placed on a restricted vendor list or otherwise failed to timely comply with all applicable provisions of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1951 (October 1999).

§2911. Finder's Fees

A. It is an unsuitable method of operation or practice for any Licensee, Permittee, registered company or Applicant for Licensing or registration to pay a Finder's Fee without the prior Approval of the Chairman. An Application for Approval of payment of a Finder's Fee shall make a full disclosure of all material facts. The Division may Disapprove any such Application if the Person to whom the Finder's Fee is proposed to be paid does not demonstrate that he is suitable to hold a State Gaming License.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1951 (October 1999).

§2913. Hotel Contract Approval

A. Hotel Restrictions. To the extent prohibited by State law, the Casino Operator or Casino Manager shall not:

1. offer lodging at the Casino;

2. engage in any practice or enter into any business relationship to give any hotel or lodging facility, whether or not affiliated with the Casino Operator or Casino Manager, any advantage or preference not available to all similarly situated hotels or lodging facility; or

3. enter into any contract or agreement with any hotel or lodging facility that has not been Approved by the Gaming Board.

B. *Similarly Situated Definition*—in considering what a *similarly situated hotel or lodging facilities* shall mean, the Casino Operator or Casino Manager may consider one or more of the following factors, as it deems appropriate, in making a business decision. The Board shall consider the following factors in connection with its Approval of any contract by the Casino Operator or Casino Manager with any hotel or lodging facility:

1. the pricing of the hotel or lodging facility offered to Casino Persons;

2. the proximity of the hotel or lodging facility to the Casino;

3. the services and level of service offered by such facility to Casino Persons;

4. any suites and/or other amenities that may be offered to the Casino Persons in connection with the lodging activities;

5. the availability of rooms over a period of time; and

6. any package deals that may be offered by the hotel or lodging facility to the Casino Operator or Casino Manager.

C. Gaming Board Approval. Upon the submission by the Casino Operator or Casino Manager of any proposed contracts, the Board or its designee shall review any proposed contract and issue its Approval or Disapproval within ten (10) business days of receipt from the Casino Operator or Casino Manager. The failure to Disapprove a contract within ten (10) business days shall be deemed to be an Approval to the Casino Operator or Casino Manager that the proposed contract may be executed, unless the Board or its designee notifies the Casino Operator or Casino Manager in writing within the ten (10) business day period that an additional ten (10) business day period is necessary to review the contract. Any Disapproval shall be in writing and state the reasons for Disapproval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1951 (October 1999).

§2914. Permissible Food Service

A. The Casino Operator may offer the following food services at the Casino:

1. Employee Cafeteria. The Casino Operator may provide cafeteria style food services for the employees of the Casino with seating, provided that the cafeteria is not accessible to the general public and is limited to the employees of the Casino Operator and Casino Manager.

2. Buffet Cafeteria. The Casino Operator may offer a cafeteria-buffet style food service for patrons at the Casino provided that no food shall be given away or subsidized at this facility.

3. Local Food Concessions. The Casino Operator may enter into one or more contracts with local restaurant owners or food preparers that provide for such food preparers to offer for sale at the Official Gaming Establishment food prepared and offered at their restaurants, at kiosk concession areas, cart locations, food court areas or such other food service areas as Approved by the Board. For purposes of this section, *local restaurant owners and food preparers* shall mean any restaurant or food preparer that is located in New Orleans or within the state of Louisiana. The term *food prepared and offered at their restaurant* shall mean food

cuisine that is normally associated with the restaurant owner or food preparers respective restaurant or commissary. In connection with any such concession, the food preparer:

a. shall clearly identify the restaurant or food preparer providing the food;

b. may only offer food in areas designated for such use;

4. Seating Limitation. The food services area for the buffet cafeteria or local food concession, pursuant to Subsections 2 and 3 above, shall not provide seating for more than two-hundred and fifty persons.

5. Premium Player Food Services. The Casino Operator may enter into one or more contracts with local restaurants or food preparers that provide for such food preparers to prepare hors d'oeuvres to be paid for by the Casino Operator and to be served by the Casino Operator solely to premium players at \$100 minimum bet tables or in any designated VIP food service area.

6. Special Events and Targeted Convention Markets. The Casino Operator may enter into one or more contracts with local restaurants or food preparers or prepare food for special events marketing and targeted conventions that would have a gaming profile that matches the Casino Operator's target market, with such food paid for by the Casino Operator. For the purposes of this Section, *special events* means events at which a targeted group of customers are invited to the Casino including, without limitation, gaming tournaments, golf tournaments, boxing events, entertainment extravaganzas, fishing trips, holiday functions, and theme parties (to be held at various restaurants, hotels, theaters, plantations, antique ships, art galleries, steamboat and Casino ballroom).

B. Nothing herein shall prevent Casino Operator from leasing convention or ballroom space to third parties provided that the Casino Operator does not prepare food for such events. The lessee, however, may purchase food for such events from local restaurants or food preparers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1951 (October 1999).

§2915. Capital Replacement Fund Requirements

A. The Casino Operator shall establish a capital replacement account to be funded in the manner mandated by Section 9.5(d) of the Casino Operating Contract. In the event the Contract upon which the funding requirements are established expires or terminates, the Casino Operator shall fund the capital replacement account as ordered by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1952 (October 1999).

§2917. Nondiscrimination and Minority Participation

A. The Casino Operator and the Casino Manager shall adopt written policies, procedures and regulations to allow the participation of businesses owned by minorities in all such design, engineering, construction, banking and maintenance contracts and any other projects initiated by the Casino Operator or Casino Manager. The written policies, procedures and regulations shall provide for the inclusion of

businesses owned by minorities to the maximum extent practicable, consistent with applicable law.

B. All businesses or vendors selected by the Casino Operator or the Casino Manager for any purpose shall strictly adhere to the nondiscrimination policies and practices embodied in applicable federal, state, and local law.

C. The Casino Operator and the Casino Manager shall, as nearly as practicable, employ minorities at least consistent with the population of the state and consistent with applicable law.

D. No employee shall be denied the equal protection of the law. No regulation or policy shall discriminate against an employee because of race, religious ideas, beliefs or affiliations. No regulation or policy shall arbitrarily, capriciously or unreasonably discriminate against an employee because of age, sex, culture, physical condition, political ideas or affiliations.

E. In furtherance of the mandate set forth in the preceding four paragraphs, the Board shall monitor the Casino Operator and Casino Manager's hiring and contracting practices and exercise enforcement authority, as described below:

1. The Casino Manager and Casino Operator shall file with the Board copies of all reports that it files with the City of New Orleans pursuant to any Program or Plan undertaken within five (5) days of submission to the City of New Orleans. Should the Casino Operator no longer be required to submit the above reports to the City, the information contained in those reports will still be required by the Board in a format determined by the Board.

2. Any additional information or record the Board requires to assist in determining compliance.

3. Notice of Concern - In the event that the Board believes that the reports described above provide information that the Casino Operator's or Casino Manager's employment practices are not in compliance with the Act, the Chairman shall issue a Notice of Concern to the Casino Operator and Casino Manager prior to taking formal action against the Casino Operator or Casino Manager.

a. The Notice of Concern shall describe the alleged area of non-compliance and shall schedule a meeting with the Casino Operator and Casino Manager within ten (10) days of the notice, unless the Chairman agrees to a longer period of time, for the purpose of discussing the matter.

b. At the meeting the Casino Operator and Casino Manager shall present any information that it believes is relevant to the issue(s) raised in the Notice of Concern.

c. If the Chairman does not receive information to his satisfaction concerning the alleged areas of non-compliance he may either:

i. take the matter directly to the Board;

ii. inform the Casino Operator and Casino Manager of the steps deemed necessary to bring the Casino Operator and Casino Manager into compliance with the Act and any timetables for pursuing such action; or

iii. take other action he deems appropriate including but not limited to civil penalties and the imposition of a plan that in the discretion of the Board meets the objectives of the Act and these Regulations and is otherwise consistent with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1952 (October 1999).

§2919. Mandatory Signage

A. The Division may establish procedures for the regulation of advertising of Casino Gaming Activities. More specifically the Division may require the Casino Operator to advertise or publish specified information, slogans and telephone numbers relating to avoidance and treatment of compulsive or problem gambling or gaming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999).

§2921. Reserved.

§2923. Reserved.

§2925. Gaming Employees Prohibited From Gaming

A. The holder of a Gaming Employee Permit is prohibited from participating as a player in any Game or Gaming Activity where the Permittee is employed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999).

§2927. Assisting in Violations

A. No employee, agent or representative of the Casino Operator or a Permittee shall intentionally assist another Person in violating any provision of these Regulations or a Casino Operator's Approved accounting, Security, or Gaming procedures. Such assistance shall constitute a violation of these rules. It is incumbent upon an employee, agent or representative of the Casino Operator or Permittee to notify the Board and the Division of any possible violation of any Federal, State or Municipal Law, the Act, the Regulations adopted pursuant to the Act, the Casino Operator's Internal Controls or any order of the Division or the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999).

§2929. Action Based Upon Order of Another Jurisdiction

A. The Division may take enforcement action against a Licensee, Permittee or other Person who has been disciplined in another jurisdiction for Gaming related activity

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999).

§2933. Weapons in the Casino

A. Weapons as defined in the Louisiana Criminal Code are not permitted in the Casino other than those in the possession of full time commissioned law enforcement officers who are on duty and within their respective jurisdiction and licensed gaming Security personnel which are on duty, or otherwise as Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999).

§2934. Detention and Ejection

A. In order to effectuate the policies in the Act related to maintaining the integrity of Gaming Operations and protecting the safety of Persons within the Casino, the Casino Operator and Casino Manager and their employees and agents shall at all times cooperate and assist representatives of the Board and the Division in connection with maintaining order and preventing suspected activity threatening the safety or welfare of Patrons or others within the Casino. In addition, the Casino Operator and Casino Manager and their employees and agents shall comply with the following:

1. In the event that there is reasonable cause to believe that a Person at the Casino:

a. has violated any provisions of the Act, the Regulations or other criminal laws of the State;

b. is subject to exclusion pursuant to Chapter 37 of these Regulations;

c. is subject to removal pursuant to Subsection 3 below; or

d. is threatening the safety or welfare of any Patron or employee within the Casino, the Casino Operator and its employees and agents may escort such Person to Security Personnel employed by the Casino Operator for questioning and, if necessary, notification and turnover to regulatory or law enforcement authorities including, without limitation, the New Orleans Police Department, representatives of the Gaming Board or the Division.

2. In connection with any questioning of a Person as provided for in Subsection 1 above, the Casino Operator may take such person into custody, make a search (reasonable under the circumstances) of such Person for weapons or suspected contraband of suspected criminal activity, and/or detain such Person within the Casino in a reasonable manner and for a reasonable amount of time, provided however, the Casino Operator shall ensure that there is adequate surveillance coverage of any detention area. A notice shall be provided to a detained person that the area is under surveillance. The Casino Operator may take a photo of any Person detained for questioning under the standards set forth in Subsection 1 above.

3. In the event that there is reasonable cause to believe that a Person attempting to enter the Casino or within the Casino is:

a. under the age of 21;

b. visibly intoxicated;

c. a threat to the safety or welfare of other Persons;

d. a prostitute or panhandler;

e. a person who has been detained or ejected from the Casino in the past 24 month period; or

f. otherwise does not meet any house rules established for entry into the Casino; the Casino Operator and its employees and agents may exclude or remove such Person from the Casino.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999).

§2935. Age Restrictions for the Casino

A. No Persons under the age of twenty-one (21) shall:

1. play or be allowed to play any Game or Gaming Device at the Casino;
2. loiter or be permitted to loiter in or about any room, premises, or designated area where any Game or Gaming Device is located, operated or conducted at the Casino.
3. be employed as a Gaming Employee or any operator of any Game or Gaming Device at the Casino; or
4. serve or be served, consume or be allowed to consume any alcoholic beverage at the Casino.

B. The Casino Operator shall draft and implement policies and procedures designed to satisfy the requirements of this Section, including policies and procedures pertaining to documentation relating to proof of age and the examination of such document by a responsible Casino Employee or employees of Security service providers and to provide suitable Security to enforce the policies and procedures. These methods shall be in writing and include, but shall not be limited to posting signs at all entrances to the Casino area declaring that persons under twenty-one years of age are not permitted to loiter in or about the Gaming area. The Casino Operator shall provide copies of all methods implemented in accordance to this Rule to the Division and the Board. The methods implemented by the Casino Operator are subject to Approval by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999).

§2937. Check Cashing; Purchase of Tokens, Chips, and Electronic Cards; Prohibitions

A. No Person holding a gaming Permit and no servant, agent, or employee of the Casino Operator shall cash or accept, in exchange for the purchase of Tokens, chips, or electronic cards:

1. an identifiable employee payroll check.
2. any document evidencing or stating title to or ownership of, whether unencumbered or encumbered by a privilege, mortgage, or security Interest, any classification of motor vehicle, manufactured home, or immovable property, including any building or dwelling situated therein.
3. a check that represents a Family Independence Temporary Assistance Program (FITAP), Temporary Assistance for Needy Families (TANF), or supplemental security income payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999).

§2939. Compulsive or Problem Gamblers—Telephone Information And Referral Service-Posting

A. The Casino Operator shall post one or more signs at points of entry to the Designated Gaming Areas to inform customers of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling.

1. The toll-free number is 1-800-Gambler.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999).

§2941. Political Contributions

A. Political Contributions by the Casino Operator, Casino Manager, their employees and their affiliated entities are prohibited in accordance with the Act and the Campaign Finance Disclosure Act (La. R.S. 18:1481 et seq.) and in particular La. R.S.18:1505.2(L).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999).

§2943. Prohibited Business Relationships with Public Officers

A. The Casino Operator or Casino Manager shall not engage in any business activity with any Person whom the Casino Operator or Casino Manager knows or should know is a public officer as defined by La. R.S. 42:1.

1. Business activity shall specifically include but not be limited to contracts:
 - a. for the sale or purchase of goods, merchandise and services;
 - b. to provide or receive legal services, advertising, public relations, or any other business or personal service;
 - c. for the listing, purchasing, or selling of immovable property or options or real rights relating thereto;
 - d. modifying ownership or possessing interests in stocks, bonds, securities or any financial instrument.

2. Business activity shall not include treating a public officer for Gaming purposes, in the same manner as all other Patrons, provided such treatment is consistent with conduct permitted by the Act, the Code of Governmental Ethics and all other applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999).

§2945. Restricted Areas

A. Only authorized Persons as provided in Chapter 29 of these Regulations, or in the Casino Operator's Internal Controls as Approved by the Division, may enter restricted areas on or within the Casino. For the purpose of this Subsection, restricted areas shall include, but are not limited to the following:

1. cage and cashier areas;
2. pit areas;
3. casino vault;
4. soft count and hard count rooms;
5. surveillance room;
6. card and dice room;
7. computer room;
8. any other area designated by the Casino Operator,

Casino Manager or the Division.

B. The Casino Operator shall implement procedures to insure compliance with this Subsection. The Division may require the Casino Operator to erect barriers, stanchions, signage, and other such equipment as necessary to prohibit unauthorized Persons from entering these areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999).

§2947. Identification Card Issuance Equipment

A. The Casino Operator shall be required to furnish and maintain all necessary equipment for the production and issuance of Gaming Employee Identification/Permit badges. The badges shall meet all standards set forth by the Division and must be Approved by the Supervisor. The equipment shall be housed in or near the Casino and shall be capable of printing the Gaming Employee identification number issued by the Division on the identification badge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999).

§2949. Accessibility to Premises; Parking

A. The Casino shall provide adequate parking for exclusive use by the Board, Division or their Representatives. Parking shall be within the Casino and in close proximity to the Division office and the number of parking spaces and location shall meet Division specifications.

B. The Casino shall ensure that the Board, Division or their Representatives are provided an expedient means for entry and departure in regard to access to premises. For the purpose of this Section, premises includes but is not limited to private roads, parking lots, buildings, structures, and land which the Licensee owns, leases or uses in relationship to the Casino Operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999).

§2951. Waivers and Authorizations

A. All waivers of the Board or Division policies, special requests, and additional Approvals by the Board or Division, except matters concerning emergency situations, must be submitted, in writing, to the Board and Division no less than ninety (90) days prior to the Casino Operator's planned implementation date, unless a shorter time is approved by the Board or Division. No waiver or Board or Division Approval is valid until such time as the Casino Operator receives an authorization number and written Approval from the Board or Division, except Approvals to ship Gaming Devices into the state in which case the Board or Division shall give an Approval number for the shipment. The Board or Division declares the right to determine what constitutes an emergency situation on a case by case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999).

§2953. Comfort Letters

A. The Supervisor may authorize the issuance of *comfort letters* by the Division. A *comfort letter* may be issued on any matter over which the Division has regulatory power or enforcement power as authorized by the Act or by these Regulations. A *comfort letter* may be a prior Approval for a matter for which such prior Approval is not required by the Act or by these Regulations, a statement of no objection by

the Division for a matter for which an Approval is not required by the Act or by these Regulations, or such other matters as the Supervisor may deem appropriate.

B. A request for a *comfort letter* must be in writing and must be received by the Division at least sixty (60) days prior to the event, transaction, occurrence or other matter for which the *comfort letter* is sought. The sixty (60) day requirement may be waived by the Supervisor upon a showing of good cause.

C. A *comfort letter* shall only be a statement of the Division's position on a matter as is outlined or described in the written request authorized by this Section. Any matter over which a *comfort letter* has been issued is still subject to Division Approval after an appropriate investigation as is authorized by the Act or these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999).

§2955. Approvals

A. All Approvals issued by the Division are conditional and ineffective unless they are in writing and signed by the Supervisor or by an Agent authorized to sign on behalf of the Supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999).

§2957. Extension of Credit

A. Regulations 2957 et seq. shall apply to the extension of credit by the Casino Operator to a Patron in the form of markers or the extension of other lines of credit. These Regulations shall not apply to check cashing provided such check cashing is performed consistent with the Casino Operator's Approved Internal Controls and as otherwise provided in these Regulations.

B. A credit file for each Person shall be prepared by the Casino Operator's or Casino Manager's cage cashier or credit department representative with no incompatible functions either manually or by computer prior to the Casino Operator's or Casino Manager's approval of a Person's credit limit. All credit limits and changes thereto shall be supported by the information obtained in the credit file. All information recorded in the credit file shall be in accordance with the Casino Operator's or Casino Manager's system of internal controls Approved by the Division.

C. Prior to the Casino Operator's or Casino Manager's approval of a Person's credit limit, a credit department representative with no incompatible functions shall document that the Casino Operator or Casino Manager:

1. has received information from a bona fide credit reporting agency that the Person has an established credit history that is not derogatory; or

2. has received information from a legal business that has extended credit to the Person that the Person has an established credit history that is not derogatory; or

3. has received information from a financial institution at which the Person maintains an account that the Person has an established credit history that is not derogatory; or

4. has examined records of its previous credit transactions with the Person showing that the Person has paid substantially all of his credit instruments and otherwise documents that it has a reasonable basis for placing the amount or sum at the Person's disposal;

5. if no credit information was available from any of the sources listed in Subparagraph C.1-4 above for a Person who is not a resident of the United States, the Casino Operator or Casino Manager has received, in writing, information from an agent or employee of the Casino Operator or Casino Manager, limited to those listed in §2959, who has personal knowledge of the Person's credit reputation or financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the Person's disposal (Such information shall be furnished to the Division upon request);

6. has, in the case of third party checks for which cash, chips, or tokens have been issued to the Person or which were accepted in payment of another credit instrument, either examined and photocopied the Person's valid driver's license, or if a driver's license cannot be obtained, examined and photocopied some other document normally acceptable as a means of identification when cashing checks to be kept in the Person's credit file and has, for the check's maker or drawer, performed and documented one of the credit checks set forth in this Subsection;

7. has ensured that the Person to whom the credit is extended, signs the credit instrument when credit is extended;

8. has obtained, recorded and verified the Person's address before extending the credit.

D. Credit limit extensions, not to exceed \$1,000, may be Approved without performing the requirements of Subsections (B) and (C) above if such credit extensions are temporary and are noted as being for this trip only (TTO) in the credit file. Temporary credit extensions shall be limited to the strict guideline of the Approved Internal Control system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1955 (October 1999).

§2959. Credit Approval Authorization

A. Any credit limit, and any changes thereto, must be Approved by any one or more of the individuals identified in the Approved internal controls, or holding the job positions of the vice president of Casino operation, credit manager, assistant credit manager, credit shift manager, credit executive or a credit committee composed of Casino key employees with no incompatible functions which may approve credit as a group but whose members may not approve credit individually unless such Person is included in the job position referenced above, or in the Approved Internal Controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1956 (October 1999).

§2961. Credit Limit Increases

A. Prior to approving a credit limit increase, a representative of the credit department shall:

1. obtain a written request from the Person;
2. verify the Person's current Casino limits and outstanding balances;
3. verify the Person's outstanding indebtedness and personal checking account information;
4. consider the Person's player rating based on a continuing evaluation of the amount and frequency of play subsequent to the Person's initial receipt of credit. The Person's player rating shall be readily available to the credit department prior to their approving a Person's request for a credit limit increase;
5. for table game play, the information for the Person's player rating shall be recorded on a player rating form by Casino department supervisors or put directly into the Casino Operator's or Casino Manager's computer system pursuant to an Approved Submission;
6. for slot play, the information for the Person's player rating shall be recorded on a player rating form by slot department supervisors, or put directly into the Casino Operator's or Casino Manager's system pursuant to an Approved submission, or generated by insertion of a card, by a Person, into a card reader attached to a slot machine;
7. include the information and documentation required by Subsections A.1-6 above and the Person's player rating indicated at the time the credit increase is approved in the Person's credit file.

B. The Casino Operator or Casino Manager shall establish procedures for safeguarding used player rating forms. Such procedures shall be incorporated in the system of internal controls Approved by the Division.

C. Credit limit increases may be Approved without performing the requirements of Subsections A.2 and A.3 above if the increases are temporary and are noted as being for this trip only (TTO) in the credit file. Temporary increases shall be limited to the strict guideline of the Approved internal control system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1956 (October 1999).

§2963. Additional Requirements

A. The Casino Operator's or Casino Manager's credit department shall either verify the Person's address, current Casino credit limits and any outstanding indebtedness, or suspend the Person's credit privileges, whenever:

1. a Person's credit file has been inactive for a 12 month period; or
2. a Person has failed to completely pay off his credit balance at least once within a 12 month period; or
3. a credit instrument is returned to the Casino Operator or Casino Manager by a Person's bank; or
4. information is received by the Casino Operator's or Casino Manager's credit department which reflects negatively in the Person's continued credit worthiness; or
5. the information in the Person's credit file has not been updated or verified for a 12 month period;
6. the Casino Operator or Casino Manager shall verify the Person's name and banking information whenever the Casino Operator or Casino Manager has reason to believe that this information has changed.

B. If a Person's credit privileges have been suspended, the procedures required by Subsection A above shall be

performed before that Person's credit privileges are reinstated provided, however, if the suspension is the result of a return check by the Person's bank, the Casino Operator or Casino Manager may alternatively reinstate the Person's credit privileges by complying with the requirements of §2965 of these Regulations.

C. The Casino Operator or Casino Manager shall verify the Person's name and banking information whenever the Casino Operator or Casino Manager has reason to believe that this information has changed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1956 (October 1999).

§2965. Suspension of Credit Privileges

A. Any Person having a check returned to the Casino Operator or Casino Manager unpaid by the Person's bank shall have his credit privileges suspended until such time as the returned check has been paid in full or the reason for the derogatory information has been satisfactorily explained. If the Casino Operator or Casino Manager desires to continue the Person's credit privileges on the basis of a satisfactory explanation having been obtained for the returned check, it may do so if the Casino Operator or Casino Manager records the explanation for its decision in the credit file before accepting any further checks from the Person along with the signature of the credit department representative accepting the explanation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1957 (October 1999).

§2967. Record Keeping

A. All transactions affecting a Person's outstanding indebtedness including all issuances of credit and payments thereof, to the Casino Operator or Casino Manager shall be recorded in chronological order in the Person's credit file and credit transactions shall be segregated from the safekeeping deposit transactions.

B. Player rating cards, evidence of credit worthiness and related documents shall be retained for a minimum of five years, or as long as the debt remains unpaid, whichever is longer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1957 (October 1999).

§2969. Collection and Deduction from Gross Revenue

A. The Casino Operator or Casino Manager, after extending credit and prior to taking a deduction for uncollected credit instruments shall:

1. document that it has attempted to collect the full amount of the debt at least once every 30 days while the debt is treated as collectible, by requesting payment in a letter sent to the Person's known address, or in personal or telephone conversations with the Person, or by presenting the credit instrument to the Person's bank for collection, or otherwise demonstrated to the satisfaction of the Division that it has made good faith attempts to collect the full amount of the debt.

2. furnish the credit instrument to the Division within 30 days after Division's request, unless the Casino Operator or Casino Manager:

- a. has independent, written and reliable verification that the credit instrument is in the possession of a court, governmental agency, or financial institution;

- b. has been returned to the Person upon the Casino Operator's or Casino Manager's good faith belief that it had entered into a valid settlement created contemporaneously with the settlement that contains the information required by Subsection F of this Section;

- c. has been stolen and the Casino Operator or Casino Manager has made a written report of the theft to an appropriate law enforcement agency, other than the Division, having jurisdiction to investigate the theft; or

- d. the Supervisor waives the requirements of this Subsection because the credit instrument cannot be produced because of any other circumstances beyond the Casino Operator's or Casino Manager's control.

B. If the Casino Operator, or Casino Manager has returned a credit instrument upon partial payment, consolidation, or redemption of the debt, it shall issue a new *substituted* credit instrument in place of the original and shall furnish the substituted credit instrument to the Division within 30 days of its request, unless the Casino Operator or Casino Manager has independent, written, and reliable verification that the substituted credit instrument cannot be produced because it is in the possession of court, governmental agency, or financial institution, has been stolen and the Casino Operator or Casino Manager has made a written report of the theft, to an appropriate law enforcement agency having jurisdiction to investigate the theft; or the Supervisor waives the requirements of this subsection, because the substituted credit instrument cannot be produced because of any other circumstances beyond the Casino Operator's or Casino Manager's control.

C. The reports made pursuant to Subsection A and B above shall be made within 30 days of the Casino Operator's or Casino Manager's discovery of the theft and shall include general information about the alleged crime, the amount of financial loss sustained, the date of the alleged crime, and the names of employees or agent of the Casino Operator or Casino manager who may be contacted for further information. The Casino Operator or Casino Manager shall furnish to the Division, a copy of the theft report within 30 days of its creation.

D. If the Casino Operator or Casino Manager believes that a credit, or substituted credit instrument has been subject to a forgery, than the Casino Operator or Casino Manager shall:

1. submit a written report of the forgery, if any, of the Person's signature on the instrument to an appropriate law enforcement agency having jurisdiction to investigate the crime, the amount of financial loss sustained, the date of the alleged forgery, and identification of employees or agents of the Casino Operator or Casino Manager who may be contacted for further information. The Casino Operator or Casino Manager shall furnish a copy of forgery reports made pursuant to this paragraph to the Division within 30 days of its request;

2. retain all documents showing, and otherwise make detailed records of, compliance with this Subsection, and furnish them to the Division within 30 days of its request.

E. Unless ordered by a bankruptcy court or otherwise approved by the Division, the Casino Operator or Casino Manager shall not settle the debt for less than its full amount unless such settlement is designed to:

1. induce the Person to make a partial payment;
2. compromise a genuine dispute between the Person and the Casino Operator or Casino Manager regarding the existence or amount of the debt.
3. obtain a Person's business and to induce timely payment of the credit Instrument.

F. This Subsection is only satisfied if the percentage of the discount off the face value of the credit instrument is reasonable as compared to the prevailing practice in the gaming industry at the time the credit instrument was issued and the Casino Operator or Casino Manager documents or otherwise keeps detailed records of the settlement.

G. The Casino Operator or Casino Manager shall ensure:

1. that a debt settled is settled either with the Person to whom the credit was initially extended or his personal representative. For purpose of this Section, a personal representative is an individual who has been authorized by the Person to make a settlement on his behalf. The Casino Operator or Casino Manager shall document its reasonable basis for its belief that the Person has authorized the individual to settle the Person's debt.

2. the settlement agreement is reflected in a single document prepared within thirty (30) days of the agreement and the document includes:

- a. the Person's name;
- b. the original amount of the credit instrument;
- c. the amount of the settlement stated in words;
- d. the date of the agreement;
- e. the reason for the settlement;
- f. the signatures of the Casino Operator's or Casino Manager's employees who authorized the settlement;
- g. the Person's signature or in the cases in which the Person's signature is not on the settlement document, confirmation from the Person acknowledging the debt, the settlement and its terms and circumstances in a signed, written statement received by the Division within 30 days of its request. If confirmation from the Person is not available because of circumstances beyond the Casino Operator's or Casino Manager's control, the Casino Operator or Casino Manager shall provide such other information regarding the settlement as the Division determines is necessary to confirm the debt and settlement.

H. If the Division determines that it is necessary to independently verify the existence or the amount of a settlement, the Casino Operator or Casino Manager shall allow the Division to confirm the settlement and its terms and circumstances with the Person to whom the Credit was initially extended. The Division may disallow the settlement.

I. The settlement and/or write-off of uncollectible accounts shall be determined by the credit committee composed of Key Employees with no incompatible functions which may Approve settlement and/or write-off of uncollectibles as a group but whose members may not approve such individually.

J. The Casino Operator or Casino Manager shall provide to the Division all appropriate records including but not limited to the Person's credit and collection file, upon request.

K. The Division may Approve or Disapprove such settlement and/or write-off of uncollectibles consistent with these Regulations and the Division shall notify the Casino Operator or Casino Manager in writing after receiving such request.

L. In the case of a dispute, the Casino Operator or Casino Manager may appeal the Division's decision as set forth in the Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1957 (October 1999).

§2970. Collection of Gaming Credit

A. Only bonded, duly licensed collection agencies, or a Casino Operator's or Casino Manager's employees, independent agents, attorneys, or Affiliated or wholly-owned corporations and their employees or Permitted Junket Representatives may collect, on the Casino Operator's or Casino Manager's behalf and for any consideration, Gaming credit extended by the Casino Operator or Casino Manager.

B. Notwithstanding the provisions of paragraph A above, the Casino Operator or Casino Manager shall not permit any Person who has been found unsuitable, or who has been denied a Gaming Permit, or had a Permit revoked, to collect, on the Casino Operator's or Casino Manager's behalf and for any consideration, Gaming credit extended by the Casino Operator or Casino Manager.

C. The Casino Operator shall maintain for the Division's inspection, records that describe credit collection arrangements and shall include any written contract entered into with Persons described in paragraph (A) above, unless such Persons are the Casino Operator's Key Employees or Junket Representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1958 (October 1999).

§2971. Disallowed Deductions

A. The Casino Operator or Casino Manager shall not be entitled to a deduction if the Minimum Payment required under the Casino Operating Contract has not been satisfied.

B. The Casino Operator or Casino Manager may not be entitled to a deduction if the particular credit was, in the sole opinion of the Division, issued in a manner that is inconsistent with the Approved internal controls system.

C. The Casino Operator or Casino Manager shall not knowingly compromise any credit collection amount with any Person that has an outstanding debt with any Affiliate, or any subsidiary thereof, of the Casino Operator or Casino Manager, without the Approval of the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1958 (October 1999).

Chapter 31. Rules of Play

§3101. Authority and Applicability

A. The Casino may only conduct those Games and Gaming Activities expressly authorized by the Act, by these Regulations or by the Casino's Rules of Play contained in the Internal Controls as are Approved by the Division in writing.

B. The Games and Gaming Activities authorized by this Chapter shall be conducted pursuant to these Regulations and the Casino's Rules of Play contained in the Internal Controls as are Approved by the Division in writing. In the event of a conflict or inconsistency between the Regulations and the Casino's Rules of Play, the Regulations shall prevail unless the Division issues a written order indicating otherwise in that particular case.

C. The Division may conditionally Approve a new Game for a period of up to ninety days (90) days to allow testing and evaluation to insure that Approval of such is in the best interest of the public and Patrons. A new Game authorized pursuant to this paragraph shall not be conducted after the expiration of the ninety day testing and evaluation period unless the Casino's Rules of Play are amended to include the new Game and the Division has Approved the amendment in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999).

§3103. House Rules

A. As Approved by the Division in writing, the Casino Operator shall adopt and make available to all Patrons at the Casino written and comprehensive house rules governing Wagering transactions with Patrons.

B. Without limiting the generality of the foregoing, the Casino Operator's Rules of Play must specify the amounts to be paid on Winning Wagers.

C. The Casino may offer side Wagers for a bonus or progressive jackpot by receiving various combinations in any authorized Game, as long as the rules relating to such Wagers are clearly specified in the house rules pursuant to this Chapter and Approved by the Division in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999).

§3105. Submission of Rules

A. The Casino Operator shall submit in writing to the Division for review and Approval the proposed Rules of Play prior to the commencement of Gaming Operations. The Casino Operator's Rules of Play shall be attached as an exhibit in the Casino Operator's Internal Controls. The Casino Operator's Rules of Play shall contain the following:

1. the rules regarding the conduct of each particular Game or Gaming Activity;
2. the manner in which Wagers are made and the minimum and maximum Wagers accepted by the Casino for a particular Game or Gaming Activity; and
3. the Payout odds applicable to Wagering transactions.

B. Any change in the Casino's Rules of Play including permissible rules, Wagers and Payout odds must be

submitted in writing and gain prior written Approval by the Division before implementation.

C. The Casino shall not permit any Game to be played other than those specifically named in the Act, these Regulations, or the Casino Operator's Rules of Play in the Internal Controls as Approved by the Division. For each Game, the Casino shall provide a written set of Game rules to the Division (60) days in advance of commencing the Game's operation or within such time period as the Division, in its sole discretion, may authorize in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999).

§3107. Wagers

A. All Wagers at Gaming tables shall be made by placing Gaming Chips or Tokens on the appropriate area of the Gaming table layout. In addition, each player shall be responsible for the correct positioning of their Wager or Wagers on the Gaming layout regardless of whether or not they are assisted by the Dealer. Each player must ensure that any instructions they give to the Dealer regarding the placement of their Wager are correctly carried out.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999).

§3109. Game Limits

A. The Casino shall establish for each Approved Game and Slot Machine a minimum and maximum amount that can be Wagered on each opportunity to Wager, and shall at all times conspicuously display these limits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999).

§3111. Publication of Payoffs

A. Payoff schedules or award cards, as Approved by the Division, in writing, shall be displayed at all times either in a conspicuous place on or immediately adjacent to every Approved Game or Gaming Device. Payoff schedules or award cards must accurately state actual payoffs or awards applicable to the particular Game or Gaming Device and must not be worded in such manner as to mislead or deceive the Public. Maintenance of any misleading or deceptive matter on any payoff schedule or award card or failure on the part of the Casino to make payment in strict accordance with posted payoff schedules or award cards may be deemed a violation of the Act, a violation of these Regulations, or a violation of the Casino's Rules of Play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999).

§3113. Periodic Payments

A. The Casino shall remit the total winnings and non-cash prizes awarded to a Patron as the result of any Approved Game upon validation of the win by the Casino Operator. The payment of winnings over a specified period

of time is prohibited unless otherwise Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999).

§3115. Blackjack (Twenty-one)

A. Blackjack or Twenty-one is a card Game played with one or more decks of cards dealt in a manner Approved by the Division. The Player attempts to beat the Dealer by obtaining a total equal to or less than twenty-one (21) so that his total is higher than the Dealer's.

B. Definitions. The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

1. *Blackjack*—shall mean an ace and any card having a point value of 10 dealt as the initial two cards to a Player or a Dealer except that this shall not include an ace and a ten point value card dealt to a Player who has split pairs.

2. *Dealer*—shall mean the Person responsible for dealing the cards at a Blackjack table.

3. *Hard Total*—shall mean the total point count of a hand which contains no aces or which contains aces that are each counted as 1 in value.

4. *Hole Card*—shall mean the card dealt face down to the Dealer.

5. *Shoe*—shall mean a device from which playing cards may be dealt. The Division may require the Casino Operator to utilize a *shutter shoe* in all the Casino's Gaming Operations.

6. *Soft Total*—shall mean the total point count of a hand containing an ace when the ace is counted as 11 in value.

7. *Wash or Chimney Shuffle*—shall mean randomly mixing the cards through a circular washing motion while the cards are spread on the layout.

C. Blackjack Table: Physical Characteristics

1. Blackjack shall be played at a table having on one side places for the Players and on the opposite side a place for the Dealer.

2. The cloth covering the Blackjack table shall have imprinted the name of the Casino or some other logo Approved by the Division and shall have areas for Players, which are six or seven in number, unless otherwise Approved by the Division.

3. Each Blackjack table shall have a drop box and a tip box attached to it as Approved by the Division.

4. The following inscriptions shall appear on the cloth covering the Blackjack table unless otherwise Approved by the Division:

- a. blackjack payouts;
- b. dealer must draw to 16 and stand on all 17's; and
- c. insurance pays 2 to 1;
- d. some Blackjack tables may have imprinted thereon a no smoking statement.

D. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Blackjack to include, but not limited to, the following:

1. cards, number of decks, number of cards in a deck, value of cards;
2. wagers;

3. payouts;
4. shuffle;
5. cut procedure;
6. removing used and damaged cards;
7. dealing procedures;
8. dead game;
9. collecting and paying.

E. No Player or spectator shall handle, remove or alter any cards used to Game at Blackjack and no Dealer, Casino supervisor or other employee will permit a Player or spectator to engage in such activity, except at hand dealt Blackjack as Approved by the Division in writing.

F. The Casino shall not permit multiple Wagers on any one box of the Blackjack layout unless express written Approval from the Division has been granted. This Section does not prohibit *double downs* and *splits*.

G. Irregularities. The Casino Operator or Casino Manager shall submit to the Division for Approval written procedures addressing irregularities which shall include but not be limited to the following:

1. a card found turned upwards in the Shoe shall not be used in that Game and shall be placed in the discard rack (burned);

2. a card drawn in error without its face being exposed shall be used as though it were the next card from the Shoe;

3. after the initial two cards have been dealt to each Player and a card is drawn in error and exposed to the Players, such card shall be burned or placed in the discard rack and will not be offered to any Player or to the Dealer;

4. if the Dealer has a point total of seventeen or more and accidentally draws a card for him/herself, such card shall be burned;

5. if the Dealer misses dealing his first or second card to him/herself, the Dealer shall continue dealing the first two cards to each Player, and then deal the play, all of the cards in the discard rack shall be shuffled and cut according to procedures appropriate number of cards to him/herself;

6. if there are insufficient cards remaining in the Shoe to complete a round of outlined in the Casino's Rules of Play, the first card shall be drawn face downwards and burned; and the Dealer shall complete the round of play.

7. if no cards are dealt to a Player's hand, the hand is dead and the Player shall be included in the next deal. If only one card is dealt to the Player's hand, the Player may have the option of calling his hand dead or the Dealer shall deal the second card to the Player after all other Players have received a second card. All other Players have the option of calling their hand dead or playing their hands.

H. At all tables where the Wager and entry restrictions are in effect, a sign will be posted notifying the Patrons of the restrictions. The sign(s) shall indicate as follows:

1. mid-shoe entry prohibited until shuffle;
2. mid-shoe entry restricted to minimum Wagering until shuffle;

3. patrons not Wagering on all rounds prohibited from wagering until shuffle;

4. patrons not Wagering on all rounds restricted to minimum bet until shuffle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1960 (October 1999).

§3116. Royal Match 21

A. Royal Match 21 is a card Game played with one to six decks of cards dealt in a manner Approved by the Division. The player attempts to beat the Dealer by obtaining a total equal to or less than twenty-one (21) so that the Player's total is higher than the Dealer's total.

B. Definitions. The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

Blackjack—shall mean an ace and any card having a point value of 10 dealt as the initial two cards to a Player or a Dealer except that this shall not include an ace and a ten point value card dealt to a Player who has split pairs.

Dealer—shall mean the Person responsible for dealing the cards at a Blackjack table.

Hard Total—shall mean the total point count of a hand which contains no aces or which contains aces that are each counted as 1 in value.

Hole Card—shall mean the card dealt face down to the Dealer.

Shoe—shall mean a device from which playing cards may be dealt. The Division may require the Casino Operator or Casino Manager to utilize a *shutter* shoe in all the Casino's Gaming Operations.

Soft Total—shall mean the total point count of a hand containing an ace when the ace is counted as 11 in value.

Wash or Chimney Shuffle—shall mean randomly mixing the cards through a circular washing motion while the cards are spread on the layout.

C. Table Characteristics

1. Royal Match 21 shall be played at a table having on one side places for the Players and on the opposite side a place for the Dealer.

2. The cloth covering the Royal Match 21 table shall have imprinted the name Casino or some other logo Approved by the Division and shall have areas for Players, which are six or seven in number, unless otherwise Approved by the Division.

3. Each Royal Match 21 table shall have a drop box and a tip box attached to it as Approved by the Division.

4. The following inscriptions shall appear on the cloth covering the Royal Match 21 table unless otherwise Approved by the Division:

- a. Royal Match 21 payouts;
- b. designated circle labeled *Royal Match Bet* for each Player position;
- c. dealer must draw to 16 and stand on all 17's; and
- d. insurance pays 2 to 1;
- e. some Royal Match 21 tables may have imprinted thereon a no smoking statement.

D. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Royal Match 21 to include, but not limited to, the following:

- 1. cards, number of decks, number of cards in a deck, value of cards;
- 2. wagers;
- 3. wagering for Royal Match 21;
- 4. payouts;
- 5. shuffle;
- 6. burning;
- 7. cut procedure;

- 8. removing used and damaged cards;
- 9. dealing procedures;
- 10. collecting and paying;
- 11. paying bets;

E. No Player or spectator shall handle, remove or alter any cards used to Game at Royal Match 21 and no Dealer, Casino supervisor or other employee will permit a Player or spectator to engage in such activity, except at hand dealt Royal Match 21 as Approved by the Division in writing.

F. The Casino shall not permit multiple Wagers on any one box of the Royal Match 21 layout unless express written Approval from the Division has been granted. This Section does not prohibit *double downs* and *splits*.

G. Irregularities. The Casino Operator or Casino Manager shall submit to the Division for Approval written procedures addressing irregularities which shall include but not be limited to the following:

1. a card found turned upwards in the Shoe shall not be used in that Game and shall be placed in the discard rack (burned);

2. a card drawn in error without its face being exposed shall be used as though it were the next card from the Shoe;

3. after the initial two cards have been dealt to each Player and a card is drawn in error and exposed to the Players, such card shall be burned or placed in the discard rack and will not be offered to any Player or to the dealer;

4. if the Dealer has a point total of seventeen or more and accidentally draws a card for him/herself, such card shall be burned;

5. if the Dealer misses dealing his first or second card to him/herself, the Dealer shall continue dealing the first two cards to each Player, and then deal the appropriate number of cards to him/herself;

6. if there are insufficient cards remaining in the Shoe to complete a round of play, all of the cards in the discard rack shall be shuffled and cut according to procedures outlined in the Casino's Rules of Play, the first card shall be drawn face downwards and burned; and the Dealer shall complete the round of play;

7. if no cards are dealt to a Player's hand, the hand is dead and the Player shall be included in the next deal. If only one card is dealt to the Player's hand, the Player may have the option of calling his hand dead or, at the Player's option, the Dealer shall deal the second card to the Player after all other Players have received a second card. All other Players have the option of calling their hand dead or playing their hands.

H. At all tables where the Wager and entry restrictions are in effect, a sign will be posted notifying the Patrons of the restrictions. The sign(s) shall indicate as follows:

- 1. mid-Shoe entry prohibited until shuffle;
- 2. mid-Shoe entry restricted to minimum Wagering until shuffle;
- 3. patrons not Wagering on all rounds prohibited from Wagering until shuffle;
- 4. patrons not Wagering on all rounds restricted to minimum bet until shuffle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1961 (October 1999).

§3117. Craps

A. Craps is a dice game dealt in a manner Approved by the Division. The Player attempts to predict the combined point total of two thrown dice.

B. Definitions. The following words and terms, shall have the following meanings unless the context clearly indicates otherwise.

Bowl—shall mean the container in which the dice shall be stored on a live Game directly in front of the Stickperson;

Come Out Point—shall mean the total of 4, 5, 6, 8, 9 or 10 thrown by the Shooter on the come out Roll;

Come Out Roll—shall mean the first Roll of the dice at the opening of the Game and the first Roll of dice after a decision with respect to a pass bet and don't pass bet has been effected;

Come Point—shall mean a total of 4, 5, 6, 8, 9 or 10 thrown by the Shooter on the next Roll following placement of a come bet or don't come bet;

Dealer—shall mean the Casino employee responsible for paying winning Wagers, collecting losing Wagers, and placing Wagers on a dice Game;

Puck—shall mean the marker used to either:

a. notify the Players that a Come Out Roll is about to ensue (*off mode*);

b. identify the Shooter's point (*on mode*).

Roll—shall mean the throw of the dice by Shooter;

Out—shall mean a total of 7 thrown by the Shooter subsequent to his establishment of a Come Out Point;

Shooter—shall mean the Player who throws the dice;

Stick—shall mean the instrument with which to move, present or gather the dice;

Stickperson—shall mean the Casino employee responsible for the dice, pace of the Game, and the proposition area;

Total—shall mean the sum of numbers shown on the high or uppermost side of the two dice on any given Roll;

Wager—shall mean the amount and type of bet a Player makes on a dice Game.

C. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Craps to include, but not limited to, the following:

1. the physical characteristics of the craps table;
2. permissible wagers;
3. making and the removal of wager;
4. payout odds;
5. buy and let bets;
6. supplemental wagers;
7. dice; retention and selection;
8. throw of dice;
9. invalid roll of the dice;
10. point throw; settlement of wagers;
11. continuation of shooter, selection of new shooter;
12. irregularities.

D. Vigorish Prohibited. Except as otherwise provided for in this Chapter of the Casino's Rules of Play, the Casino shall not charge any percentage, fee or vigorish to a Player in making any wager in the Game of Craps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999).

§3119. Roulette

A. Roulette is a wheel game dealt in a manner Approved by the Division. The Player attempts to predict in which pocket the ball will come to rest.

B. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for roulette to include, but not limited to the following:

1. physical characteristics of the Roulette table;
2. wagers;
3. payout odds;
4. rotation of Wheel and Ball.

C. Irregularities. The Casino Operator or Casino Manager shall submit to the Division for Approval written procedures addressing irregularities which shall include but not be limited to the following:

1. if the ball is spun in the same direction of the wheel, the Dealer shall inform the Players that the spin is not valid by announcing *No Spin* and shall attempt to remove the Roulette ball from the wheel prior to its coming to rest in one of the compartments;

2. if the roulette ball does not complete four (4) revolutions around the track of the wheel, the Dealer shall inform the Players that the spin is not valid, by announcing *No Spin* and shall attempt to remove the Roulette ball from the wheel prior to its coming to rest in one of the compartments;

3. if a foreign object enters the wheel prior to the ball coming to rest, the Dealer shall inform the Players that the spin is not valid, by announcing *No Spin* and shall attempt to remove the Roulette ball from the wheel prior to its coming to rest in one of the compartments;

4. if a ball appears to *Float* and does not drop in a normal fashion, a Dealer or a Floorperson, Pit boss or Casino Manager may inform the Players that the spin is not valid by announcing *No Spin* and shall attempt to remove the Roulette ball from the wheel prior to its coming to rest in one of the compartments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999).

§3120. Baccarat

A. Baccarat is a card game dealt in a manner Approved by the Division. The Player attempts to predict whether the banker or player's hand total will be closer to nine.

B. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Baccarat to include, but not limited to the following:

1. physical characteristics of the table;
2. cards, number of decks, value, point count of hand;
3. wagers;
4. payout odds, vigorish;
5. shuffle and cut of the cards;
6. dealing shoe/ selection of player to deal cards;
7. hands of player and banker; procedure for dealing initial two cards to each hand;
8. rules for determining whether a third card shall be dealt;
9. procedure for dealing additional cards;

10. announcement of result of round, payment and collection of wagers;

11. irregularities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999).

§3121. Mini-Baccarat

A. Baccarat is a card game dealt in a manner Approved by the Division. The Player attempts to predict whether the banker or players hand total will be closer to nine.

B. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Mini-Baccarat to include, but not limited to the following:

1. physical characteristics of the table;
2. cards, number of decks, value, point count of hand;
3. wagers;
4. payout odds, vigorish;
5. shuffle and cut of the cards;
6. dealing shoe;
7. hands of player and banker; procedure for dealing initial two cards to each hand;
8. rules for determining whether a third card shall be dealt;
9. procedure for dealing additional cards;
10. announcement of result of round, payment and collection of wagers;
11. removing used cards from table;
12. irregularities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999).

§3122. Midi-Baccarat

A. Baccarat is a card game dealt in a manner Approved by the Division. The Player attempts to predict whether the banker or players hand total will be closer to nine.

B. The Casino Operator or Casino Manager shall submit the Division for Approval, written and comprehensive Rules of Play for Midi-Baccarat to include, but not limited to, the following:

1. physical characteristics of the table;
2. cards, number of decks, value, point count of hand;
3. wagers;
4. payout odds, vigorish;
5. shuffle and cut of the cards;
6. dealing shoe/selection of player to deal card if applicable;
7. hands of player and banker; procedure for dealing initial two cards to each hand;
8. rules for determining whether a third card shall be dealt;
9. procedure for dealing additional cards;
10. announcement of result of round, payment and collection of wagers;
11. removing used cards from the table.

C. Irregularities. The Casino Operator or Casino Manager shall submit to the Division for Approval written procedures addressing irregularities which shall include but not be limited to the following:

1. a third card dealt to the *Player's Hand* when no third card is authorized by the Casino Rules of the Game, shall become the third card of the *Banker's Hand* if the *Banker's Hand* is obliged to draw. If in such circumstances, the *Banker's Hand* is required to stand, the card dealt in error shall become the first card of the next round unless the cards are replaced before the next round. In such cases the disclosed card shall be removed from play and the void hand procedure shall be followed. Starting with the exposed card, the dealer will announce *No Bets this Hand* and proceed to deal a void hand. All third card hitting rules will apply. After the hand is dealt, normal play will resume;

2. a card drawn in excess from the shoe if not disclosed shall be used as the first card of the next round of play unless the cards are reshuffled or replaced before the next round. If the card has been disclosed, it shall be removed from play and the void hand procedure will be followed. Starting with the exposed card, the Dealer will announce *No Bets this Hand* and proceed to deal a void hand. All third card hitting rules will apply. After the hand is dealt, normal play will resume;

3. any card found face upwards in the shoe shall be removed from play and the void hand procedure will be followed. Starting with the exposed card, the Dealer will announce *No Bets this Hand* and proceed to deal a void hand. All third card hitting rules will apply. After the hand is dealt, normal play will resume;

4. if there are insufficient cards remaining in the shoe to complete a round of play, that round shall be void and a new round shall commence after the entire set of cards is reshuffled and replaced in the shoe;

5. if during the initial deal the cards are dealt out of sequence and cannot be reconstructed, the hand shall be void;

6. if a card is drawn and exposed that is not needed for the hand in play the dead hand procedure will be followed. Starting with the exposed card, the Dealer will announce *No Bets this Hand* and proceed to deal a void hand. All third card hitting rules will apply. After the hand is dealt, normal play will resume;

7. if the dealer fails to count and burn the initial cards at the commencement of a shoe, or any situation that requires the cards to be burned, or a dead hand is dealt, play will continue as provided in the Rules of Play as Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999).

§3123. Big Six Wheel

A. Big Six is a Wheel of Fortune game dealt in a manner Approved by the Division. The player attempts to predict the section in which the wheel will stop.

B. Big Six Payout Odds

1. The Casino shall pay off Winning Wagers at Big Six at the odds listed below unless otherwise Approved by the Division in writing:

BET PAYOUT ODDS

\$ 1 Insignia 1 to 1

\$ 2 Insignia 2 to 1

\$ 5 Insignia 5 to 1

\$10 Insignia 10 to 1

\$20 Insignia 20 to 1
Joker 45 to 1
Name of Casino 45 to 1

C. Big Six Wheel: Physical Characteristics

1. Gaming at Big Six shall be conducted at a wheel circular in shape not less than 48 inches or more than 66 inches in a diameter. The rim of the wheel shall be divided into 54 equally spaced sections, 23 or 24 sections containing a \$1.00 bill, 15 sections containing a \$2.00 bill, 7 or 8 sections containing a \$5.00 bill, 4 sections containing a \$10.00 bill, 2 sections containing a \$20.00 bill, 1 section containing the name of *The Casino* (Logo), and 1 section containing a picture of the Joker, each of which sections shall be covered with glass, unless otherwise Approved by the Division.

2. Each Big Six Wheel table shall have the name of the Casino, or such other logo Approved by the Division displayed on it and shall have a drop box and a tip box attached to it at the locations.

3. The cloth covering each Big Six table shall be marked with insignias of a \$1.00 bill, a \$2.00 bill, a \$5.00 bill, a \$10.00 bill, a \$20.00 bill, a (Licensee Logo) and a Joker, which shall be used by patrons in placing bets at this game.

D. Big Six Wheel: Wagers and Rotation of the Wheel.

1. The minimum Wagers and the maximum Wagers established by the Casino shall be and remain conspicuously posted at each Big Six Table.

2. Players who are high limit Players and are known by a Floorperson or Pit Boss may make Wagers which exceed the stated table limit with the Approval of the Floorperson, but not to exceed the maximum limit in the Casino. Only those Persons authorized in the Approved Internal Controls may authorize a player to exceed the maximum Casino limit.

3. Any Wager made by a Patron that is less than the posted table minimum and is not rejected by either a Dealer or a Floorperson, Pit Boss, Casino Manager or Director of Casino Operations prior to commencement of play shall be treated as a valid Wager. Any Wager made by a Patron that is in excess of the posted table maximum and is not rejected prior will only be valid up to the posted table maximum; the excess shall be returned to the layer and not considered part of the valid Wager.

4. The Dealer shall walk-spin the wheel at least two times before the final spin and release of the wheel. Before the Dealer releases the wheel, he/she will call *no more bets*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999).

§3125. Bouree

A. Bouree is a Louisiana card game dealt in a manner Approved by the Division. It is played with the dealer revealing the trump card and the card in play. Winners are determined by the most tricks taken.

B. Number of Players. Three to five. Each Player for himself. Five is the standard and less than five is a short game.

C. The Pack. The Pack consists of 52 cards divided in four suits of 13 cards each.

D. Rank of Cards. A (high), K, Q, J, 10, 9, 8, 7, 6, 5, 4, 3, 2

E. Ante. A contribution of one Chip to the pot by each Player, made before each deal and at the start belonging equally to all Players.

F. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Bouree to include, but not limited to, the following:

1. cards, number of cards in deck, value of cards;
2. the shuffle and cut;
3. the deal;
4. the draw;
5. incorrect dealing in the draw;
6. exposed cards;
7. incorrect number of cards;
8. misdeal;
9. irregularities;
10. the play;
11. object of game;
12. what constitutes a game;
13. what constitutes a winner;
14. split;
15. safe;
16. bourre;
17. renege;
18. recall renege;
19. card the board recall;
20. card the board;
21. penalties;
22. pot level;
23. buy in;
24. additional buy in;
25. cinch hand;
26. vigorish;
27. irregularities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1964 (October 1999).

§3127. Poker

A. Poker is a card game dealt in a manner Approved by the Division. The player attempts to obtain a five-card hand combination that is better than the other players.

B. Definitions. The following words and terms, shall have the following meanings unless the context clearly indicates otherwise.

Action—a binding verbal statement or physical gesture of intention, folding or putting money in the Pot by a Bet, Call or Raise.

Ante—a Player's initial Wager or predetermined contribution to the Pot prior to the dealing of the first Hand.

Bet—to make a Wager by putting chips into the Pot.

Big-Bet Poker—any betting structure where the maximum Wager is unlimited or controlled by the size of the Pot, such as no-limit, Pot-limit or half-Pot limit.

Call—a Wager made in an amount equal to the immediately preceding Wager.

Cap the Betting—to prohibit all further Wagers that increase the Total Bet on a round. Once the Betting has been capped, even all-in Bets increasing the Total Bet are not allowed.

Card Game Shill—an employee engaged and financed by the Casino as a Player for the purpose of starting and/or maintaining a sufficient number of Players in a card Game. Casinos are prohibited from using Card Game Shills in an Games offered for play.

Card Table Bank—an impressed inventory of cash and Chips physically located in the Table Tray on the card table and controlled by the Casino through accountability established with the Chip and Card room Bank.

Ceiling Figure—a restriction on the size of the Total Bet on a particular Betting round, or in all Betting rounds for a certain Game.

Check—to waive the right to initiate the Wagering but to retain the right to Call after all the other Players have either Wagered or folded.

Chip and Card Bank—an impressed fund which is a part of and accountable to the Casino's cage or bankroll but which is maintained in the card room.

Dead Blind—a blind that is assigned to a seat no longer occupied by an active Player, and therefore, not posted.

Dead Button—a button is placed in front of a seat which is no longer occupied by an active Player.

Dead Money—money that is taken into the center of the Pot because it is not considered part of a particular Player's Bet.

Fixed Limit—any Betting structure where the Betting limit on each particular round does not vary.

Flexible Limit—any Betting structure where there is a fixed upper limit but variable range on each Betting round, such as *one to four dollar limit*.

Hand—one Game in a series, one deal in a card Game, or the cards held by a Player.

Higher-Limit Games—at Seven-Card Stud, Games allowing a Bet of twenty dollars or more. At Holdem and forms of poker using blinds, Games allowing a Bet of ten dollars or more.

Lower-Limit Games—at Stud, Games where the maximum Bet is less than twenty dollars. At Holdem and forms of poker using blinds, Games where the maximum Bet is less than ten dollars.

Minimum Betting Unit—the smallest denomination of Chip that is permitted to be Wagered in the Game once antes and blinds are posted.

Muck—the discard pile is referred to as *the muck*. Muck may be used as a verb meaning to put a Hand into the discard pike and thereby killing it.

Multi-Handed—a Pot with more than two active Players in contention.

Pot—the Total amount anted and Wagered by Player during a Hand.

Proposition Player—a Person paid a fixed sum by the Casino for the specific purpose of playing in a card Game who uses his own funds and who retains his Winnings and absorbs his losses.

Raise—a Wager made in an amount greater than the immediately preceding Wager.

Rake-Off—a percentage of the Pot which is taken by the Casino for maintaining or dealing the Game.

C. Rules. The Casino Operator or Casino Manager shall submit to the Division for Approval, Rules of Play for Poker to include, but not limited to, the following:

1. cards, number of cards in deck, value of cards;

2. dealer procedures;
3. direction of play;
4. betting structure;
5. ranking of hands;
6. the buy-in;
7. table stakes;
8. change during a deal;
9. bottom of deck; the bottom card of the deck shall never be dealt;
10. exposed cards;
11. misdeals;
12. foul hand;
13. action out of turn;
14. burncards;
15. premature dealing;
16. uncalled bet;
17. insufficient bet;
18. insufficient call;
19. unclear bet;
20. string bet; and
21. overside chip bet.
22. bet or fold;
23. raises;
24. check and raise;
25. boxed card;
26. improper joker;
27. defective deck;
28. dropped deck;
29. showdown;
30. collusion;
31. irregularities.

D. A list of the House Rules shall be posted in public view near the location of the poker tables.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1964 (October 1999).

§3128. Caribbean Stud Poker

A. Caribbean Stud Poker is a five card stud poker game with the Patron's cards being hand-held and banked by the house. It also offers Patrons an option to participate in a progressive jackpot. A progressive jackpot is a separate amount of money that may be won by a Patron with an optional Bet. The progressive jackpot is displayed on a meter at the Caribbean Stud Poker table. Actual value of the progressive jackpot is shown on a computer monitor.

B. Definitions. The following words and terms, when used in this Section shall have the following meanings unless the context clearly indicates otherwise.

Caribbean Stud—is a five card stud poker game with the players' cards being hand-held, banked by the house and also offers patrons an option to participate in a progressive jackpot.

Dealer—the person responsible for dealing the cards at a Caribbean Stud table.

Progressive Jackpot—is a separate amount of money that may be won by a player with an optional bet. Progressive jackpot is displayed on a meter at the Caribbean Stud table. Actual value of progressive jackpot is shown on a monitor.

C. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive

Rules of Play for Caribbean Stud Poker to include, but not limited to, the following:

1. card, number of decks, number of cards in deck, value of cards;
2. wagers;
3. wagering on the progressive jackpot;
4. progressive payoff procedures;
5. shuffle;
6. cut procedure;
7. removing used and damaged cards;
8. dead game;
9. minimum and maximum bets;
10. bet odds;
11. dealing the hands;
12. collecting and paying;
13. progressive jackpot (optional);
14. progressive jackpot payouts;
15. malfunctions;
16. irregularities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1965 (October 1999).

§3129. Pai Gow Poker

A. Pai Gow Poker is a Poker style card game dealt in a manner Approved by the Division. The player attempts to have his two (high and low) hands beat the bankers two (high and low) hands.

B. Definitions. The following words and terms, when used in this Section shall have the means unless the context clearly indicates otherwise:

Bank—shall mean the Player who elects to have the other Players and the Dealer play against him/her and accepts the responsibility to pay all Winning Wagers.

Chung—plastic marker stating Banker and Co-Banker.

Co-Banking—means when the Bank covers 50% and the Casino covers 50% of all Wagers.

Copy Hand—shall mean either a two card Hand or a five card Hand of a Player which is identical in rank to the corresponding two card Hand or five card Hand of the Dealer or Bank.

Foul or Fouled Hand—means when the two card Low hand is higher in rank, than the five card High Hand. The Banker cannot foul his/her Hand, the cards must be reset.

High Hand—shall mean the five card Hand which is formed from the seven cards dealt at the Game of Pai Gow Poker so as to rank lower than five card High Hand.

Low Hand—shall mean the two card Hand which is formed from the seven cards dealt at the Game of Pai Gow Poker so as to rank lower than five card High Hand.

Rank or Ranking—shall mean the relative position of a card or group of cards in descending order.

Set or Setting the Hands—shall mean the process of forming a High Hand and Low Hand from the seven cards dealt.

Suit—shall mean one of the four categories of cards, i.e., diamond, spade, club or heart.

C. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Pai Gow Poker, to include, but not limited to, the following:

1. Game Equipment:

- a. Cards, Number of Decks, Dealing Shoe;
- b. Random Number Generator, Pai Gow Poker Shaker.
2. Pai Gow Poker Ranking;
3. Wagers;
4. Dealing the Cards;
5. Bet or Fold;
6. Foul Hand;
7. Boxed Card;
8. Improper Joker;
9. Defective Deck;
10. Dropped Deck;
11. The Showdown;
12. Order of Showdown;
13. Rank of Suits;
14. Collecting and Paying;
15. Payout;
16. Odds;
17. Collusion;
18. Spectators;
19. Irregularities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1966 (October 1999).

§3130. Let It Ride Stud Poker

A. Let It Ride Stud Poker offers Casino guests an opportunity to control two of their three Bets Wagered on a poker game. This game is based on Five Card Stud Poker, and the Players do not play against other Players or the house.

B. Definitions. The following words and terms, when used in this Section, shall have the following meaning unless the context clearly indicates otherwise:

Community Cards—mean any card which is initially dealt face down to the Dealer and which is used by all Players to form a five card Hand.

Hand—means the five card Hand formed for each Player by combining the three cards dealt to the Player and the two community cards.

Let It Ride—means when a Player chooses not to take back either of the two or three Wagers.

Round of Play—means one complete cycle of play during which all Players and the Dealer have been dealt three cards, have Wagered upon it and had their Wagers paid off or collected in accordance with the Rules of this submission.

Stub—means the remaining portion of the deck after all cards in the Round of Play have been dealt.

Suit—means one of the four categories of cards: club, diamond, heart or spade, with no suit being higher in rank than another.

- C. Table Characteristics

1. Let It Ride shall be played at table having on one side, places for the Players and on the opposite side, a place for the Dealer. The cloth covering a Let it Ride poker table shall have seven separate designated betting areas for the placement of Wagers. Each designated betting area shall include three separate places to place Wagers. There shall also be a separate designated area located directly in front of the table inventory container for the placement of the Community Cards.

2. The following inscriptions shall be conspicuously printed on each Let It Ride covering, *25,000.00 Aggregate Win Per Round*. The Casino shall post or make available at each Let it Ride poker table information explaining the details and ramifications of this aggregate Win limit.

3. Each Let It Ride poker table shall have a drop box and tip box attached to it.

D. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Let It Ride Poker to include, but not limited to, the following:

1. cards, number of cards, number of cards in a deck, value of cards;
2. shuffle;
3. dealing;
4. let it ride rankings;
5. wagers;
6. procedures for completion of each round of play;
7. payout odds;
8. collecting and paying;
9. house limit;
10. dead game.

E. Irregularities. The Casino Operator or Casino Manager shall submit to the Division for Approval written procedures addressing irregularities which shall include but not be limited to the following:

1. if any Player or Dealer is dealt an incorrect number of cards, all Hands will be void and the cards will be reshuffled;

2. if the automated card shuffling device being used jams, stops shuffling during a shuffle or fails to complete a shuffle cycle the cards will be reshuffled;

3. if a community card is exposed during the deal, or at any time other than the proper procedure of turning over community cards, the Hand shall be declared dead;

4. if the Player Bets less or more on one/two of the three Bets than the others, the Wager will be treated as if the Player Bet the lowest Wager in their Betting area;

5. if a Player Bets on only one (1) or two (2) of the three (3) Betting spots, that Hand will be declared dead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1966 (October 1999).

§3131. Let it Ride Bonus Stud Poker

A. Let It Ride Bonus Stud Poker offers Casino guests an opportunity to control two of their four Bets Wagered on a poker game. This game is based on Five Card Stud Poker, and the Players do not play against other Players or the house.

B. Definitions. The following words and terms, when used in this Section, shall have the following meaning unless the context clearly indicates otherwise:

Community Cards—mean any card which is initially dealt face down to the Dealer and which is used by all Players to form a five card Hand.

Hand—means the five card Hand formed for each Player by combining the three cards dealt to the Player and the two community cards.

Let it Ride—means when a Player chooses not to take back either of the two or three Wagers.

Round of Play—means one complete cycle of play during which all Players and the Dealer have been dealt three cards, have Wagered upon it and had their Wagers paid off or collected in accordance with the Rules of this submission.

Sub—means the remaining portion of the deck after all cards in the Round of Play have been dealt.

Suit—means one of the four categories of cards: club, diamond, heart or spade, with no suit being higher in rank than another.

C. Table Characteristics

1. Let it Ride shall be played at table having on one side, places for the Players and on the opposite side, a place for the Dealer. The cloth covering a Let it Ride poker table shall have seven separate designated betting areas for the placement of Wagers. Each designated betting area shall include three separate places to place Wagers. There shall also be a separate designated area located directly in front of the table inventory container for the placement of the Community Cards.

2. The following inscriptions shall be conspicuously printed on each Let It Ride covering, *25,000.00 Aggregate Win Per Round*. The Casino shall post or make available at each Let it Ride poker table information explaining the details and ramifications of this aggregate Win limit.

3. A designated sensor circle for each position shall be located in front of the Betting circles. This sensor circle shall be used for placing a Bet for a bonus payout.

4. Each Let it Ride poker table shall have a drop box and tip box attached to it.

D. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Let it Ride Bonus Stud Poker to include, but not limited to, the following:

1. cards, number of cards, number of cards in a deck, value of cards;

2. shuffle;

3. dealing;

4. let it ride bonus stud poker rankings;

5. wagers;

6. wagering a bonus bet;

7. procedures for completion of each round of play;

8. payout odds;

9. bonus payoff procedures ;

10. bonus payout identification requirements;

11. collecting and paying;

12. house limit;

13. dead game;

14. malfunctions;

15. accounting;

E. Irregularities. The Casino Operator or Casino Manager shall submit to the Division for Approval written procedures addressing irregularities which shall include but not be limited to the following.

1. If any Player or Dealer is dealt an incorrect number of cards, all Hands will be void and the cards will be reshuffled.

2. If the automated card shuffling device being used jams, stops shuffling during a shuffle or fails to complete a shuffle cycle the cards will be reshuffled.

3. If a community card is exposed during the deal, or at any time other than the proper procedure of turning over community cards, the Hand shall be declared dead.

4. If the Player Bets less or more on one/two of the three Bets than the others, the Wager will be treated as if the Player Bet the lowest Wager in their Betting area.

5. If a Player Bets on only one (1) or two (2) of the three (3) Betting spots, that Hand will be declared dead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1967 (October 1999).

§3132. Casino War

A. Casino War is a card game played with three to six decks of cards dealt from a shoe. The Player attempts to beat the Dealer by obtaining a card with a value higher than that of the Dealer's card.

B. The Casino Operator or Casino Manager shall submit to the Division for Approval, written and comprehensive Rules of Play for Casino War to include, but not limited to, the following:

1. physical characteristics of the table;
2. cards, number of decks and value of card;
3. shuffle and cut of the cards;
4. burning of a card;
5. wagers;
6. dead games;
7. minimum and maximum bets;
8. dealing the hands;
9. collecting and paying.

C. Irregularities. The Casino Operator or Casino Manager shall submit to the Division for Approval written procedures addressing irregularities which shall include but not be limited to the following:

1. a card found turned upwards in the shoe shall not be used in that game and shall be burned;
2. a card drawn in error without its face being exposed shall be used as though it were the next card from the shoe;
3. a card drawn in error and exposed to the players shall be burned;
4. if a Player does not receive a card after placing their initial wager and the Dealer has passed them, the Player shall have no action until the next hand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1968 (October 1999).

Chapter 33. Surveillance

§3301. Required Surveillance Equipment

A. The Casino Operator shall install in the Casino a closed circuit television system in accordance with the specifications herein and shall provide for access at all times to the system or its signal by Agents of the Division. The closed circuit television must meet or exceed the following specifications established by the Division to include:

1. Solid state, black and white cameras, as Approved by the Division installed in fixed positions with matrix control and/or with pan, tilt and zoom capabilities, secreted from public and non-Surveillance personnel view to effectively and clandestinely monitor in detail, from various vantage points, the following:

a. the Gaming conducted at the Electronic Gaming Devices; including, but not limited to the coin and currency acceptor area, the Payout Tray, and the designated house number assigned to the device or its location;

b. the count processes conducted in the count rooms;

c. the movement of cash, Chips, drop boxes, Token storage boxes, and drop buckets within the Casino and any area of transit of uncounted Tokens, Chips, cash and cash equivalents;

d. any area where Tokens or Chips can be purchased or redeemed;

e. the entrance and exits to the Casino and the count rooms;

f. for all live Games regardless of Patron or employee position:

i. hands of all Gaming Patrons and Dealers;

ii. tray; and

iii. overall layout of the table area capable of capturing clear individual images of Gaming Patrons and Dealers, inclusive of, without limitation, facial views and the playing surface so that the outcome of each Game may be clearly observed.

g. Such other areas as the Supervisor designates.

2. Individual solid state, color, cameras as Approved by the Division installed with matrix and/or pan, tilt and zoom capabilities secreted from public and non-Surveillance personnel view augmented with appropriate color corrected lighting to effectively and clandestinely monitor in detail, from various vantage points, the following:

a. for Roulette tables, in a manner to clearly observe the Wagers, Patrons, and the outcome of each Game;

b. the operations conducted at the fills and credit area of the cashier's cage(s).

3. All closed circuit cameras equipped with lenses of sufficient magnification to allow the operator to clearly distinguish the value of the Chips, Tokens and playing cards.

4. Video monitors that meet or exceed the resolution requirement for video cameras with solid state circuitry, and time and date insertion capabilities for taping what is being viewed by any camera in the system. Each video monitor screen must measure diagonally at least twelve (12) inches and all controls must be front mounted.

5. Video printers capable of adjustment and possessing the capability to generate instantaneously, upon command, a clear, color and/or black and white, copy of the image depicted on the videotape recording.

6. Date and time generators based on a synchronized, central or master clock, recorded on tape and visible on any monitor when recorded.

7. Wiring to prevent tampering. The system must be supplemented with a back-up gas/diesel generator power source which is automatically engaged in case of a power outage and capable of returning to full power within seven (7) to ten (10) seconds. A monitoring device which alerts personnel that the backup system is in operation must also be installed in the Surveillance Room.

8. An additional uninterrupted power supply system so that time and date generators remain active and accurate, and switching gear memory and video surveillance of all casino entrances/exits and cage areas is continuous.

9. Video switchers capable of both manual and automatic sequential switching for the appropriate cameras.

10. Videotape recorders as Approved by the Division capable of producing high quality first generation pictures and recording on a standard 2 inch, V.H.S. tape with high-speed scanning and flickerless playback capabilities in real-time or other medium Approved by the Division. Such videotape recorders must possess time and date insertion capabilities for taping what is being viewed by any camera in the system.

11. Audio recording capability in the soft count room.

12. Adequate lighting in all areas where camera coverage is required. The lighting shall be of sufficient intensity to produce clear videotape and still picture production, and correct color correction where color camera recording is required. The video must demonstrate a clear picture, in existing light under normal operating conditions.

13. At all times during the conduct of Gaming, the Casino Operator shall have as a reserve, six (6) back-up cameras and six (6) video recording devices in the event of failure.

14. The Division may allow alternative Surveillance equipment at the Supervisors discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1968 (October 1999).

§3303. Surveillance System Plans

A. The Casino Operator shall submit to the Division a Surveillance System plan no later than ninety (90) days prior to the start of Gaming Operations. The Surveillance System plan must include a floor plan that shows the placement of all Surveillance equipment in relation to the locations required to be covered by this Regulation and a detailed description of the Casino Surveillance System and its equipment. The plan must also include a detailed description of the layout the Surveillance Room and the configuration of the monitoring equipment. In addition, the plan may include other information that evidences compliance with this Subsection by the Casino Operator including, but not limited to, a Casino configuration detailing the location of all Gaming Devices and Equipment.

B. Any changes to the Surveillance Room or the Surveillance System must be submitted to the Division for prior Approval as provided in §2955 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1969 (October 1999).

§3305. Surveillance Room And Gaming Board's Controlled Space Requirements

A. There shall be for the exclusive use of Division Agents and for the use by employees of the Casino Gaming Operation, rooms at the Casino for monitoring and recording purposes. The room for the exclusive use of the Board, Division, and their representatives shall be designated the Gaming Board's Controlled Space. The room for the use of the employees of the Casino Gaming Operation shall be designated the Surveillance Room.

B. All equipment that is utilized to monitor or record must remain solely accessible to the Surveillance Room

personnel and the Division and be exclusively for Casino Surveillance, except when such equipment is being repaired or replaced, unless otherwise Approved by the Division.

C. Employees of the Casino Gaming Operation assigned to monitoring duties in the Surveillance Room are prohibited from being employed in any other capacity by the Casino Operator while performing Surveillance duties. A Surveillance employee shall not be employed by the Casino in any other capacity after the employee leaves or is removed from the Surveillance position. An employee of the Casino Gaming Operation assigned to monitoring duties in the Surveillance Room shall also be prohibited from being employed simultaneously by another Licensed Casino.

D. The interior of the Gaming Board's Controlled Space and the Surveillance Room shall not be visible to the public.

E. The Surveillance System must be specifically Approved by the Division, in its sole discretion, prior to Casino operations becoming active and shall be reviewed on an ongoing basis. Each room shall have appropriate switching capabilities to insure that all Surveillance cameras are accessible to monitors in both rooms. The equipment in the Gaming Board's Controlled Space must be able to monitor and record, without being over ridden, anything visible by monitor to employees of the Casino. The Gaming Board's Controlled Space will be equipped with two stations with switching capabilities and a video printer with capabilities outlined in §3301.A.5 of these Regulations.

F. Agents of the Division, upon presentation of proper Division credentials, shall be provided immediate access to the Surveillance Room and other Surveillance areas upon request. In addition, Agents are to be provided, upon request, copies of recorded videotapes of activities as well as copies of any images produced on a video printer. The Division shall have absolute, unfettered access to the Surveillance Room at all times and the Division shall have the right to take control of said room.

G. Consistent with Sections 7.2 and 9.26 of the Casino Operating Contract, the Gaming Board's Controlled Space shall be furnished with all necessary furniture and fixtures as specified by the Division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility to Division Agents to review, monitor and record data identical to that specified in Section 4333 of these Regulations.

H. The staffing of the Surveillance Room is a part of the Surveillance System and the staffing plan must be Approved by the Division. The Supervisor reserves the right to require additional Surveillance personnel should he determine that an inadequacy of Surveillance monitoring exist. Failure to comply with the Division orders regarding this Section shall constitute an administrative violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1969 (October 1999).

§3307. Segregated Telephone Communication

A. A segregated telephone communication system shall be provided for use by Division Agents in the Gaming Board's Controlled Space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1969 (October 1999).

§3309. Surveillance Logs

A. The Casino Operator shall be required to maintain Surveillance logs Approved by the Division. The logs shall be maintained by Surveillance Room personnel in the Surveillance Room. The Division shall have access at all times to the logs. A log entry shall be made in the Surveillance logs of each Surveillance activity. Each log entry shall include the following:

1. all Persons entering and exiting the Surveillance Room shall be entered in an entrance log. Casino personnel that access the Surveillance Room through the use of a magnetic stripe access card, or other similar device, are not required to make an entry in the entrance log provided they enter and exit using the access card;

2. summary information, including date, time and duration, of each the Surveillance activity in an activity log;

3. record of any equipment or camera malfunctions in an equipment malfunction log;

4. description of any unusual events occurring shall be recorded in an activity log;

5. any additional information as required by the Division.

B. The Surveillance logs required by this Section shall be retained for a period of (5) years and stored by month and year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999).

§3311. Storage And Retrieval

A. All videotape recordings shall be retained for at least seven (7) days, unless these Regulations provide otherwise, and shall be listed on a log by Surveillance personnel with the date, times, and identification of the Person monitoring or changing the tape in the recorder. Original videotape recordings will be released to the Division upon demand. The tape shall be preserved until the Division notifies the Casino Operator that it is no longer needed.

B. Any videotape recording of illegal or suspected illegal activity shall, upon completion of the tape, be removed from the recorder and etched with date, time and identity of Surveillance personnel. The videotape shall be placed in a separate, secure area and notification given to the Division. The tape shall be preserved until the Division notifies the Casino Operator that it is no longer needed.

C. All videotape recordings relating to the following shall be retained in a secure area Approved by the Division for at least thirty (30) days unless otherwise Approved by the Division and shall be listed on a log maintained by Surveillance personnel:

1. all count room areas;
2. the vault area; and
3. all credit and fill slip confirmation recordings.

D. All videotape recordings relating to the following shall be retained in a secure area Approved by the Division for at least forty-five (45) days and shall be listed on a log maintained by Surveillance personnel:

1. com-check transactions;
2. check cashing transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999).

§3315. Maintenance and Testing

A. All Surveillance equipment shall be subject to impromptu testing of minimum standards of resolution and operation by the Division.

B. The Division shall be notified without delay upon the malfunction of Surveillance equipment.

C. Any malfunction of Surveillance equipment shall require the immediate replacement or repair of the faulty unit. Immediate replacement or repair shall mean seventy-two (72) hours, unless otherwise Approved by the Division.

D. Pending immediate replacement or repair, live monitoring must be provided by Casino security personnel, unless the Division is satisfied that alternative surveillance is adequate. If immediate replacement or repair of Surveillance equipment monitoring a Game or Games is not possible, and there is no (adequate) alternative surveillance coverage written Division Approval must be obtained prior to the Game or Games continuing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999).

§3317. Surveillance System Compliance

A. The Casino Operator shall have a continuing duty to review its Surveillance System plan to ensure the Surveillance System plan remains in compliance with the Act and the Division's Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999).

Chapter 35. Patron Disputes

§3501. Casino Operator or Casino Manager Duty to Notify Division of Patron Dispute

A. Whenever the Casino Operator refuses to pay winnings claimed by a Patron and the Patron and the Casino Operator are unable to resolve the dispute, the Casino Operator shall notify the Division in writing of the dispute within seven days of the Casino Operator being notified, in writing, that the dispute remains outstanding. Such notice shall identify the parties involved in the dispute, and shall state all known relevant facts regarding the dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999).

§3502. Patron Dispute Form

A. Whenever the Casino Operator and Patron are unable to resolve a dispute regarding the payment of winnings, the Casino Operator shall provide the Patron a *Patron Dispute Form* supplied by or Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1970 (October 1999).

Chapter 37. List of Excluded Persons

§3701. Definitions and Contents of the List

A. The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise.

Candidate—any Person whom the Division believes should be placed on the Exclusion List pursuant to these Regulations.

Career or Professional Offender—any Person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this state.

Cheat—any Person whose act or acts in any jurisdiction would constitute *cheating* as defined in La. R.S. 27:264.

Excluded Person—any Person who has been placed on the Exclusion List by the Division and who has failed to timely request a hearing or who remains on the list after a final determination.

Inimical to the Interests of the State of Louisiana or of Casino Gaming—adverse to the public confidence and trust in the credibility, integrity and stability of Casino Gaming Operations and in the regulatory process created by the Casino Act.

List or Exclusion List—a list or lists which contain identities of Persons who are excluded from any Licensed Gaming Operation pursuant to the Act.

Occupational Manner or Context—the systematic planning, administration, management, or execution of an activity for financial gain.

B. Contents of the List. The following information shall be provided for each Excluded Person:

1. the full name of the Person and any known aliases the Person is believed to have used;

2. a description of the Person's physical appearance, including height, weight, type of build, color of hair and eyes, and any other physical characteristics that may assist in identifying the Person;

3. the date of birth of the Person;

4. the date of the order mandating exclusion of the Person;

5. a photograph of the Person, if available and the date thereof; and

6. the Person's occupation and his current home and business address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1971 (October 1999).

§3703. Maintenance and Distribution of the List

A. The Division shall maintain a list of Persons to be excluded or ejected from the Casino.

B. The list shall be open to public inspection.

C. The list shall be distributed by the Division to the Casino Operator, Casino Manager, Each Riverboat Licensee, each Manufacturer and Supplier holding a Permit, and each Person holding a racehorse Wagering Permit, who shall acknowledge receipt of the list in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1971 (October 1999).

§3705. Duty of Casino Operators, Casino Manager and Permittee to Exclude

A. Whenever an Excluded Person enters or attempts to enter the Casino pursuant to the act or other premises operated pursuant to a Permit issued pursuant to the Act, and is recognized by the Casino Operator, Casino Manager or Permittee or his agents or employees, the Casino Operator, Casino Manager or Permittee and his agents and employees shall:

1. immediately notify the Division of the presence of the Excluded Person; and

2. require such Excluded Person to not enter the Designated Gaming Area and leave at the next earliest opportunity. The Division may impose sanctions as provided in Chapter 41 on the Casino Operator, Casino Manager or Permittee under this Act if the Casino Operator, Casino Manager or Permittee knowingly fails to exclude from the Casino a Person placed on the list by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1971 (October 1999).

§3706. Prohibited Contact with Persons on Exclusion List

A. The Casino Operator and Casino Manager shall:

1. not solicit by mail, by phone, in person or any other direct means any Person named on the Exclusion List (voluntary or otherwise);

2. not extend credit to any Person named on the Exclusion List (voluntary or otherwise).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1971 (October 1999).

§3707. Standards for Exclusion

A. A Person shall not be placed on the list based on the individual's race, color, creed, national origin, or sex. The Division must apply the standards set forth in La. R.S. 27:265(C)(1-3) of the Act in determining whether a Person should be a candidate for the list of Excluded Persons. Any one of the criteria is sufficient to justify naming the individual on the list, and any of the criteria is deemed satisfied if such Person:

1. has been convicted of a Gaming crime as defined in the Act;

2. has performed any act or has a notorious or unsavory reputation that would adversely affect public confidence and trust in Gaming, including, but not limited to, being identified with criminal activities in published reports of various Federal and State Legislative and Executive bodies that have inquired into criminal activities. Such bodies shall include, but not be limited to, the following:

a. California Crime Commission;

b. Chicago Crime Commission;

c. McClellan Committee (Senate Subcommittee on Investigation);

d. New York Waterfront Commission;

e. Pennsylvania Crime Commission Report;

f. Senate Permanent Subcommittee on Investigations;

- g. State of Colorado Organized Crime Strike Force;
or
h. President's Commission on Organized Crime;
3. has been named on any valid and current Exclusion List from another jurisdiction in the United States or foreign country;

4. has been convicted of cheating as defined in La.R.S. 27:264 of the Act or has been convicted of cheating in any other jurisdiction;

5. has been convicted of any crime related to the integrity of Gaming Operations or a crime of moral turpitude.

6. violation or conspiracy to violate the Provisions of the Act or the Rules and Regulations of the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1971 (October 1999).

§3709. Voluntary Exclusion by Request

A. Any individual may request exclusion due to reasons as provided by La.R.S. 27:265(D) of the Act by providing evidence thereof satisfactory to the Division and by voluntarily entering into a written agreement with the Division whereby the Supervisor is asked and authorized to notify the Casino Operator of the request. Such Person shall be named on a separate list designated *requested exclusion* and shall cooperate with the Casino Operator to assist in future exclusion consistent with §3705 of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1972 (October 1999).

§3711. Notice and Opportunity to be Heard

A. Upon a determination by the Division that one or more of the standards for being named on the list are satisfied, such Person shall be deemed a Candidate and the Board shall serve notice of Exclusion upon such Person by personal service, certified mail to the last known address of such Person, or by daily publication for one (1) week in one of the principal newspapers published in the parish of the Persons last known address. The notice shall:

1. identify the Candidate by name, including aliases, and last known address;
2. specify the nature and scope of the circumstances or reasons for such Person's candidacy;
3. inform the Candidate of his right to request a hearing to review the decision of the Division in the same manner as is provided for hearings on denials of Permits;
4. inform the Candidate that the failure to timely request a hearing shall result in the decision becoming final and a waiver of any further review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1972 (October 1999).

§3713. Effect of Notice

A. A Person named in a notice of Exclusion is prohibited from further contact of any kind with the Landbased Casino or any Riverboat Gaming Licensee in Louisiana unless and until a determination is made by the Hearing Officer designated by the Board at a hearing requested by the

Candidate that the Candidate should not be so excluded. If the Hearing Officer determines at a requested hearing that the Candidate should be excluded, the Exclusion shall be final and shall continue pending any appeal of the decision. The Candidate has the burden of proving he does not meet the criteria for Exclusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1972 (October 1999).

§3721. Effect of a Finding that a Candidate Should Not Be Excluded

A. If the Hearing Officer at a hearing requested by a Candidate determines the Candidate should not be excluded, or if the Hearing Officer's decision to exclude the Person is reversed on appeal, the Candidate's name shall be removed from the list and his Exclusion shall be terminated as of the date of the action taken by the Hearing Officer, Board or court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1972 (October 1999).

Chapter 39. Public and Confidential Records

§3901. Public Records

A. Public Records shall be open to public inspection and shall include, but not be limited to, the following:

1. all public hearings conducted by the Board and/or the Division, or its Agents, including exhibits entered in the Public Record as public documents at those meetings or hearings;
2. a list of all Applications made under the Act and the record of all formal Actions taken with respect to such Applications by the Board and/or the Division with the limitations mandated by La. R.S. 27:21(A)(2)(A-H);
3. the Board and/or the Division files on the enactment, amendment, or repeal of Regulations;
4. the Act and the Regulations promulgated thereunder;
5. licenses and Permits;
6. reports, correspondence and other documents of the Board and/or the Division specifically prepared for public distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1972 (October 1999).

§3903. Confidential Records

A. General. The Casino Act, specifically La. R.S. 27:21-22, and 237, provide that Records of the Board and Division which relate to certain matters or which consist of certain documents are exempted from public inspection. It is the intent of this Subsection to further define and amplify those matters and categories of documents which are considered confidential. This Subsection is to be interpreted to favor the following:

1. the preservation of the integrity of Gaming Activities and the control thereof;
2. the Security of Gaming;
3. the safety of the public;
4. the privacy interests of individuals; and

5. the maintenance of legal privileges, particularly those which are designed to encourage the flow of accurate information to and among regulatory bodies, and to protect the safety of confidential informants.

B. Definitions. With regard to their Application under La.R.S. 27:21, 22, and 237 and related purposes, the following terms shall have the meanings set forth herein below, unless the context clearly expands their meanings:

Division Security—means and refers to any matter which relates to or has an impact on: the physical safety of personnel; the effective investigatory and regulatory functions of the Division; the operational plans, policies, and techniques of the Division; the types and uses of any equipment utilized by the Division; the design, components, layout, structure, and similar features, of facilities used, occupied, or overseen by the Division; or any other aspect of the functions of the Division, the public disclosure of which might tend to compromise safety or the effective enforcement of law by the Division.

a. Examples of Division Security include: the types and locations of Records maintained by the Division; buildings, and offices; staffing schedules and arrangements; and lists or descriptions of equipment.

Security Techniques, Procedures, or Practices-of an Applicant, Licensee, or Permittee—means, includes and refers to any matter which relates to or has an impact on: the physical safety of officers, an Applicant, Licensee, or Permittee; the integrity of its operational methods and Internal Control systems; the design and description of all equipment, including its accounting, Gaming, and criminal detection and alarm equipment; the design, components, layout, structure, and similar features, of facilities used, occupied, or overseen by it; or any other aspect of its operations, the public disclosure of which might tend to compromise personal safety or the integrity of Gaming.

a. examples of Security techniques, procedures, or practices include: lists of employees or employment positions or functions; security plans for vessels, buildings, and offices; staffing schedules and arrangements; and lists or descriptions of equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1972 (October 1999).

§3905. Sealing of Documents

A. The Hearing Officer may allow any Person interested in a contested case brought before, by, or against the Board, to file a document or portions of a document with the Board under seal if:

1. the document or portions of the document contain information that is confidential pursuant to the Act or these Regulations;

2. the Person makes a request in writing or on the Record of a Public Hearing to allow the filing of the document or portions of the document under seal, setting forth the reasons that such filing under seal should be permitted;

3. the Person requesting the filing of the document or portions of the document under seal has, to the extent practicable, segregated the portions of the document containing confidential information from the remainder of

the document so that no more of the document than is necessary is filed under seal; and

4. the Hearing Officer finds that the public interest in maintaining the confidentiality of the information outweighs the public interest in making the information public.

B. The Hearing Officer may not allow the filing of the following documents under seal:

1. complaints for enforcement Action;

2. answers to complaints for enforcement Action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1973 (October 1999).

§3907. Access to Public Records

A. A request for access to Public Records must be made to a custodian of Records of the Board. The custodian of Records shall require payment of any duplication or certification fees prior to release of copies of the Records. As soon as practicable after payment of the required fees, the custodian of records shall provide copies of all Public Records requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1973 (October 1999).

§3909. Access to Confidential Records

A. The Board may only release Confidential Records if ordered to do so by a court of competent jurisdiction or if the agency requesting the Confidential Records is a Gaming regulatory agency or a law enforcement agency and if such agency has executed an information sharing agreement with the Board.

B. All requests for access to Confidential Records must be made in writing to the Board.

C. Pursuant to a written request, as described in Paragraph (2), from any duly authorized Agent of any agency of the United States Government, any state, or any political subdivision of this state which has executed the requisite information sharing agreement with the Board, the Board may release Confidential Records to the agency requesting them, except as otherwise provided in Subsection (D), upon a finding by the Board that the release is consistent with the policy of this State as reflected in the Act.

D. Pursuant to a written request, as described in Subsection B, the Board may release Confidential Records to a representative of the agency requesting them.

E. The Board may require any party receiving confidential information to agree in writing or on the Record of any hearing to any limitations that the Board deems necessary prior to giving that party the confidential information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1973 (October 1999).

§3911. Unauthorized Procurement of Records Prohibited

A. An Applicant, Permittee, or other Person shall not, directly or indirectly, procure or attempt to procure from the Division or Board information or Records that are not made

available by proper authority. Any violation of this Regulation constitutes reasonable cause for enforcement action or to deny any Application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1973 (October 1999).

Chapter 41. Enforcement Actions

§4101. General Provisions

A. Enforcement Actions are those actions deemed necessary to carry out the intent of the Act or Regulations, including but not limited to sanctioning, conditioning, limiting, suspending or revoking a Permit and the issuance of Emergency Orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999).

§4103. Enforcement Actions of The Board

A. Pursuant to La.R.S. 27:15(B)(3)(b)(iii) and (B)(8), 27:24(A)(4), and 27:233(B), if the Board, after investigation by the Division, is satisfied that a License or Permit should be limited, conditioned, suspended or revoked, or that other action is necessary or appropriate to carry out the provisions of the Act or Regulations, the Chairman shall issue an order on behalf of the Board:

1. limiting or restricting the operations of the Casino or a Permit; or
2. suspending or revoking the operations of the Casino or a Permit; or
3. directing Actions deemed necessary to carry out the intent of the Act or Regulations, including, but not limited to, requiring the Casino Operator to keep an individual from the Official Gaming Establishment, prohibiting payment for services rendered, prohibiting payment of profits, income, or accruals, or investment in the Casino or its operations. Such order may be an Emergency Order;
4. imposing a civil penalty on each person, or entity or both, who is permitted, Approved, registered or otherwise found suitable pursuant to the Act and these Regulations, of not more than \$1,000,000.00 per violation of the Act or these Regulations. The actual amount of the civil penalty shall be determined by the Board after considering the following factors.

a. *Economic Benefit of Noncompliance*—the extent of the economic benefit obtained from the noncompliance that gave rise to a notice of violation, as well as the likelihood of escaping detection.

i. The Board may consider the documented benefits derived from the noncompliance, or may rely on reasonable assumptions regarding such benefits.

ii. If noncompliance continues for more than one day, the Board may treat each daily illegal act or omission as a separate violation.

b. *History of Violations*—each violation shall be considered whether or not it led to a civil fine or penalty.

c. *Negligence or Willfulness*—the degree of fault in causing or failing to correct the violation, either through act or omission.

d. *Good Faith*—the Board may reduce the amount of a civil fine based on the degree of good faith in

attempting to achieve rapid compliance after notification of the violation.

e. Other considerations deemed appropriate by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999).

§4105. Emergency Orders Created

A. In order to protect the public welfare, the Patrons of the Casino and safeguard the Interests of the State of Louisiana, these Regulations hereby establish orders to enforce and/or supplement the Act and these Regulations. The orders established shall be Emergency Orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999).

§4107. Emergency Orders

A. An Emergency Order, pursuant to La. R.S. 27:15(B)(8), may only be issued by the Chairman when circumstances necessitate instantaneous Action to protect the public welfare, the interests of the State of Louisiana or the Patrons of the Casino. The Chairman is also empowered to issue Emergency Orders when extraordinary situations require immediate Action.

B. An Emergency Order must be in writing and signed by the Chairman, setting forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such Action.

C. An Emergency Order is effective immediately upon issuance and service upon the Permittee or Casino. Service of the order may be made by hand delivery, facsimile or certified mail to the Casino Operator, Permittee or Permittee's Agent.

D. An Emergency Order is subject to appeal in the manner set forth in this Chapter.

E. An Emergency Order will expire in 10 days unless a shorter period is specified.

F. A violator of an Emergency Order is subject to sanctions as set forth in these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999).

§4111. Appeal

A. All appeals shall be conducted pursuant to LAC 42:III.103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999).

§4113. Grounds for Disciplinary Action Against the Casino Operator, Casino Manager or Affiliates

A. The Board and/or Division deems any activity on the part of the Casino Operator, Casino Manager or Affiliates, and their agents or employees, as well as all Permittees, that is inimicable to the public health, safety, morals, good order and general welfare of the people of the State of Louisiana, or that would reflect or tend to reflect negatively upon the

State of Louisiana or the gaming industry, to be an unsuitable method of operation and shall constitute grounds for disciplinary Action by the Board in accordance with the Act and these Regulations. Without limiting the generality of the foregoing, the following Acts or omissions may be determined to be unsuitable methods of operation:

1. failing to disclose, misstating or otherwise misleading the Board and/or Division with respect to any material fact contained in an Application;

2. committing, attempting to commit or conspiring to commit any Acts or omissions prohibited by the Act or any provision of these Regulations;

3. failing to maintain suitability as provided in the Act and these Regulations.

4. failure to exercise discretion and sound judgement to prevent incidents which might reflect on the repute of the State of Louisiana and the Act as a detriment to the development of the Gaming industry;

5. knowingly permitting Persons who are visibly intoxicated to participate in Gaming activity;

6. complimentary service of intoxicating beverages in the Casino area to Persons visibly intoxicated;

7. failure to conduct advertising and public relations activities in accordance with decency, dignity, good taste, honesty and inoffensiveness;

8. knowingly catering to, assisting, employing or associating with, either socially, or in business affairs, Persons of notorious or unsavory reputation or Persons who have extensive police records, or Persons who have defied congressional investigative committees or other officially constituted bodies acting on behalf of the United States, or any state, or Persons who are associated with or supportive of subversive movements;

9. the employing either directly or through a contract, or any other means, of any firm or individual in any capacity where the repute of the State of Louisiana or the Gaming industry is liable to be damaged because of the unsuitability of the firm or individual or because of the unethical methods of operation of the firm or individual;

10. employing in a position for which the individual could be required to be a Permitted employee or Key Management or Key Gaming Employee pursuant to these Regulations, any Person who has been denied a Permit or Approval on the grounds of unsuitability or has failed or refused to apply for a Permit as an employee, Key Management or Key Gaming Employee as requested by the Board;

11. employing any Person who has been found guilty of cheating or using a Cheating Device in connection with any Game, whether as a Permittee or Player;

12. employing any Person whose conduct resulted in the revocation or suspension of his Permit unless such Permit was reinstated or otherwise reissued;

13. failure to comply with, or make provision for compliance with, all applicable federal, state and local laws and Regulations including, without limiting the generality of the foregoing, payment of all fees and taxes and compliance with all procedures and forms prescribed by the Secretary of the Department of Revenue and Taxation. The Board, in the exercise of its sound discretion, can make its own determination of whether or not the Person has failed to comply with the aforementioned, but such determination

shall make use of the established precedents in interpreting language of the applicable statutes;

14. possessing or permitting to remain in or upon the premises of the Official Gaming Establishment any cards, dice, or mechanical device of which not in compliance with, or was obtained in a manner that was not in compliance with the Act or the Regulations;

15. conducting, carrying on, operating or dealing with any Cheating Device on the premises;

16. failure to conduct Gaming Operations in accordance with the proper standards of custom, decorum and decency, or Permit any type of conduct in the Official Gaming Establishment which reflects or tends to reflect negatively on the repute of the State of Louisiana;

17. failure to have an employee of the Casino Operator or Casino Manager on the premises to supervise any Game;

18. issuing credit to a Patron to enable the Patron to satisfy a debt owed to another Person;

19. denying any Board member or Representative or Division Agent, upon proper and lawful demand, access to, any portion or aspect of the Official Gaming Establishment;

20. failing to comply with any provision of these Regulations or the Casino Operator's Approved Internal Controls Systems, Approved Rules of Games, or any other order or Approval;

21. failing to take all reasonable steps necessary to prevent Persons under the age of twenty-one (21), unless otherwise permitted under applicable law, to:

a. play or be allowed to play any Game or Gaming Device at the Casino;

b. loiter or be permitted to loiter in or about any room, premises, or designated area where any Game or Gaming Device is located, operated or conducted at the Casino;

c. serve or be served, consume or be allowed to consume any alcoholic beverage at the Casino.

22. failing to draft and implement policies and procedures designed to satisfy the requirements of subsection 21 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999).

§4115. Disciplinary Action Against Employees and Agents

A. The Board may take disciplinary action against any employee or Agent of the Casino Operator or Casino Manager who:

1. failed to disclose, misstated or otherwise misled the Board with respect to any material fact contained in his Application for a Permit or finding of suitability;

2. committed, attempted to commit or conspired to commit any Acts or omissions prohibited by the Casino Act or any provision of these Regulations;

3. knowingly permitted to remain in play, at the Official Gaming Establishment, any Cheating Device;

4. concealed or refused to disclose any material fact in any investigation by the Board or Division;

5. committed, attempted to commit, or conspired to commit theft or embezzlement against the Casino Operator;

6. been convicted of any Gaming related offense in any Gaming Jurisdiction;

7. accepted employment without prior Board of Division Approval in a position for which he is required to be Permitted under the Act or these Regulations, after having been denied a Permit for a reason involving suitability or after failing to apply for a Permit upon being requested to do so by the Board or Division;

8. been refused the issuance or renewal or had suspended or revoked any Gaming License or Permit, or manufacturing and distribution Permit, or any pari-mutual Permit in any other Gaming Jurisdiction;

9. been prohibited, by governmental Action, from being on the premises of any Gaming establishment in Louisiana or any other Gaming Jurisdiction; or

10. been determined in the sole discretion of the Board, to be a Person whose prior activities, criminal record, reputation, habits, and associations pose a threat to the public interest to this State or, create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Gaming Operation at the Official Gaming Establishment;

11. failed to maintain suitability as provided in the Act and these Regulations;

12. failed to comply with any provision of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1975 (October 1999).

§4117. Gaming By Owners, Directors, Officers And Key Employees

A. Except as provided in Subsection B, no officer, director, owner or Key Management or Key Gaming Employee of the Casino Operator, shall play or place a wager at any Game or Slot Machine which is exposed to the public for play or Wagering by the Casino Operator or at any establishment, such as a riverboat Gaming Operation, which is owned or operated in whole or in part by the Casino Operator in the State of Louisiana.

B. This prohibition shall not apply to the playing of or the Wagering on poker or panguingui.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999).

§4119. Disciplinary Action Against Manufacturers, Distributors and Other Vendors

A. The Board may take disciplinary Action against any manufacturer, distributor or other vendor of Gaming Devices or Gaming Supplies and any non Gaming vendor if the vendor has:

1. failed to disclose, misstated or otherwise misled the Board with respect to any material fact contained in his Application for a Permit, registration or Finding of suitability;

2. committed, attempted to commit or conspired to commit any acts or omissions prohibited by the Act or any provision of these Regulations;

3. concealed or refused to disclose any material fact in any investigation by the Board or Division;

4. committed, attempted to commit, or conspired to commit theft or embezzlement against the Casino Operator;

5. been convicted of any Gaming related offense in any Gaming Jurisdiction;

6. conducted business with the Casino Operator prior to being Permitted under the Casino Act or these Regulations. This prohibition shall not apply to vendors not required to be permitted under the Act or these Regulations.

7. been refused the issuance or renewal or had suspended or revoked any Gaming License or Permit, or manufacturing and distribution Permit, or any pari-mutual Permit in any other Gaming Jurisdiction;

8. been determined in the sole discretion of the Board, to be a Person whose prior activities, criminal Record, reputation, habits and associations pose a threat to the public interest to this State or, create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Gaming Operations at the Official Gaming Establishment;

9. failed to maintain suitability as provided in the Act and these Regulations;

10. failed to comply with any provision of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999).

§4121. Criminal Conviction As Grounds For Disciplinary Action

A. The Board may discipline any Person found suitable, including revoking or suspending his Permit, registration, Approval or finding of suitability, if the Person, or if the Person is a corporation or partnership, any Person owning 5% or more interest in the profits or losses of such entity, is convicted of a crime, even though the convicted Person's post-conviction rights and remedies have not been exhausted, if the crime or conviction discredits or tends to discredit the State of Louisiana of the Gaming industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999).

§4123. Commission of Gaming Crimes

A. If the holder of a Permit is charged with, or convicted of any prohibited act or gaming offense as identified in the Act, the Permit shall be suspended and/or revoked. The Permit of a Person convicted of a prohibited act or gaming offense shall not be renewed unless the conviction is overturned by an appellate court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999).

Chapter 43. Specifications for Gaming Equipment and Electronic Devices

§4301. Approval of Chips and Tokens; Applications and Procedures

A. The Casino Operator shall not issue any Chips or Tokens for use in its Gaming Establishment, or sell or redeem any such Chips or Tokens, unless the Chips or Tokens have been Approved in writing by the Division. The Casino Operator shall not issue any Chips or Tokens for use in its Gaming Establishment, or sell or redeem any such

Chips or Tokens, that are modifications of Chips or Tokens previously Approved by the Division, unless the modifications have been Approved in writing by the Division.

B. Applications for Approval of Chips, Tokens, and modifications to previously Approved Chips or Tokens must be made, processed, and determined in such manner and using such forms as the Division may prescribe. Only the Casino Operator and suppliers may apply for such Approval. Each Application must include, in addition to such other items or information as the Division may require;

1. an exact drawing, in color or in black and white, of each side and the edge of the proposed Chip or Token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed Chip or Token in each dimension;

2. written specifications for the proposed Chips or Tokens;

3. the name and address of the manufacturer; and

4. the Casino Operator's intended use for the proposed Chips or Tokens.

C. If, after receiving and reviewing the items and information described in Paragraph 2, the Division is satisfied that the proposed Chips or Tokens conform with the requirements of this Section, the Division shall notify the Casino Operator in writing and shall request, and the Casino Operator shall thereupon submit, a sample of the proposed Chips or Tokens in final, manufactured form. If the Division is satisfied that the sample conforms with the requirements of this Regulation and with the information submitted with the Casino Operator's Application, the Division shall Approve the proposed Chips or Tokens and notify the Casino Operator in writing. As a condition of Approval of Chips or Tokens issued for use at the Casino Operator's race book, or specific table or counter Game, the Division may prohibit the Casino Operator from using the Chips or Tokens other than at the book or specified Game. The Division may retain the sample Chips and Tokens submitted pursuant to this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999).

§4303. Specifications for Chips and Tokens

A. Chips and Tokens must be designed, manufactured, and constructed in compliance with all applicable statutes, Regulations, and policies of the United States, Louisiana, and other states, and so as to prevent counterfeiting of the Chips and Tokens to the extent reasonably possible. Chips and Tokens must not resemble any current or past coinage of the United States or any other nation.

B. In addition to such other specifications as the Division may Approve:

1. the name of the Casino must be inscribed on each side of each Chip and Token, and the city or other locality and the state where the establishment is located must be inscribed on at least one side of each Chip and Token;

2. the value of the Chip or Token must be inscribed on each side of each Chip and Token, other than Chips used exclusively at roulette;

3. the manufacturer's name or a distinctive logo or other mark identifying the manufacturer must be inscribed on at least one side of each Chip and Token; and

4. each Chip must be designed so that when stacked with Chips and Tokens of other denominations and viewed on closed circuit, black and white televisions, the denominations of the Chip can be distinguished from that of the other Chips and Tokens in the stack.

C. The names of the city or other locality and the state where the establishment is located must be inscribed on at least one side of each Chip and Token unless the Division finds, after Application by the Casino Operator, that such an inscription is not necessary because:

1. the name of the issuing establishment is unique to one readily identifiable establishment in all Gaming Jurisdictions; or

2. the inclusion of the city or other locality and the state is not necessary or beneficial for any regulatory purpose relating to the Applicant.

D. Any Application submitted pursuant to Paragraph C above must be signed by an officer of the Applicant and be on a form prescribed by the Division.

E. Any Approval by the Division for the deletion of such an inscription shall be in writing and be limited to that period of time in which the name of the Casino Operator is limited to one establishment and conditioned so that it may be withdrawn in the future if the Division determines that the deletion results in confusion with the Chips or Tokens of another establishment or if such inclusion is deemed necessary or beneficial for any regulatory purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1977 (October 1999).

§4305. Specifications for Chips

A. Unless the Division Approves otherwise, Chips must be disk-shaped, must be .130 inch thick, and must have a diameter of:

1. 1.55 inches for Chips used at Games other than Baccarat;

2. 1.55 inches or 1.6875 inches for Chips used at Baccarat; and

3. 1.6875 inches for Chips used exclusively for other counter Games.

B. Unless the Division Approves otherwise, each denomination of value Chip(s) shall have a different primary color from every other denomination of value Chip(s). Unless the Division Approves otherwise, the primary color to be utilized by the Casino Operator for each denomination of value Chip(s) shall be:

1. \$1 white;

2. \$2 pink;

3. \$5 red;

4. \$25 green;

5. \$100 black;

6. \$500 purple; or

7. \$1000 fire orange.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1977 (October 1999).

§4307. Specifications for Tokens

A. Unless the Division approves otherwise, Tokens must be disk-shaped and must measure as follows:

1. twenty five cent Tokens must be from .983 through .989 inches in diameter, from .064 through .070 inches thick, and if the Token has reeds or serrations on its edges, the number of reeds or serrations must not exceed 100;

2. one dollar denomination Tokens must be from 1.459 through 1.474 inches in diameter, from .095 through .115 inch thick, and, if the Token has reeds or serrations on its edges, the number of reeds or serrations must not exceed 150;

3. five dollar denomination Tokens must be 1.75 inches in diameter, from .115 through .135 inch thick, and, if the Token has reeds or serrations on its edges, the number of reeds or serrations must not exceed 175;

4. twenty-five dollar denomination Tokens must be larger than 1.75 inches but no larger than 1.95 inches in diameter, except that such Tokens may be 1.654 inches (42 millimeters) in diameter if made of 99.9 percent pure silver, must be 0.105 inch thick, and, if the Token has reeds or serrations on its edges, the number of reeds or serrations must not exceed 200; and

5. tokens of other denominations must have such measurements and edge reeds or serrations as the Division may Approve or require.

B. Tokens must not be manufactured from material possessing sufficient magnetic properties so as to be accepted by a coin mechanism, other than that of an Electronic Gaming Device;

C. Tokens must not be manufactured from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core, nor from a copper-based material, unless the total of zinc, nickel, aluminum, magnesium, and other alloying materials is at least 20 percent of the Token's weight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999).

§4309. Use of Chips and Tokens

A. The Casino Operator that uses Chips or Tokens at its Gaming establishment shall:

1. comply with all applicable statutes, Regulations, and policies of the State of Louisiana and of the United States pertaining to Chips or Tokens;

2. sell Chips and Tokens only to Patrons of its Gaming Establishment and only at their request;

3. promptly redeem its own Chips and Tokens from its Patrons;

4. post conspicuous signs at its establishment notifying Patrons that Federal law prohibits the use of the Casino Operator's Tokens, and that State law prohibits the use of the Casino Operator's Chips, outside the establishment for any monetary purpose whatever; and take reasonable steps, including examining Chips and Tokens and segregating those issued by other Licensees to prevent sales to its Patrons of Chips and Tokens issued by another Licensee.

B. The Casino Operator shall not accept Chips or Tokens as payment for any goods or services offered at the Casino Operator's Gaming Establishment with the exception of the

specific use for which the Chips or Tokens were issued, and shall not give Chips or Tokens as change in any other non-Gaming transaction.

C. The Casino Operator shall not redeem its Chips or Tokens if presented by a Person who the Casino Operator knows or reasonably should know is not a Patron of its Gaming Establishment, except that the Casino Operator shall promptly redeem its Chips and Tokens if presented by:

1. another Licensee who represents that it redeemed the Chips and Tokens from its Patrons or received them unknowingly, inadvertently, or unavoidably;

2. an employee of the Casino Operator who presents the Chips and Tokens in the normal course of employment; or

3. an employee of the Casino Operator who received the Chip and or Token as gratuity or tip.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999).

§4311. Receipt of Gaming Chips or Tokens from Manufacturer or Supplier

A. When Chips or Tokens are received from the Manufacturer or Supplier thereof, they shall be opened and checked by at least two (2) employees of the Casino Operator from different departments. Any deviation between the invoice accompanying the Chips or Tokens and the actual Chips or Tokens received or any defects found in such Chips or Tokens shall be reported promptly to the Division. An Agent of the Division will be notified of the time of delivery of any Chips or Tokens to Casino Operator.

B. After checking the Chips received, the Casino Operator shall cause to be reported in a Chip inventory ledger the denomination of the Chips received, the number of each denomination of Chips received, the number and description of all non-value Chips received, the date of such receipt and the signature of the individuals who checked such Chips.

C. If any of the Chips received are to be held in reserve and not utilized either at the Gaming tables or at a cashier's cage, they shall be stored in a separate locked compartment either in the vault or in a cashier's cage and shall be recorded in the Chip inventory ledger as reserve Chips.

D. Any Chips received that are part of the secondary set of Chips of the Casino Operator shall be recorded in the chip inventory ledger as such and shall be stored in a locked compartment in the Casino vault separate from the reserve Chips.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999).

§4313. Inventory of Chips

A. Chips shall be taken from or returned to either the reserve Chip inventory or the secondary set of Chips in the presence of at least two (2) individuals. The denominations, number and amount of Chips so taken or returned shall be recorded in the Chip inventory ledger together with the date and signatures of the individuals carrying out this process.

B. The Casino Operator shall, on a daily basis, compute and record the unredeemed liability for each denomination

of Chips in circulation and cause the result of such inventory to be recorded in the Chip inventory ledger. On a monthly basis, the Casino Operator shall cause an inventory of Chips in reserve to be made and cause the result of such inventory to be recorded in the Chip inventory ledger. The procedures to be utilized to compute the unredeemed liability and to inventory Chips in circulation and reserve shall be submitted to the Division for Approval. A physical inventory of Chips in reserve shall be required annually if the inventory procedures incorporate the sealing of the locked compartment.

C. During non-gaming hours all Chips in the possession of the Casino Operator shall be stored in the Chip bank, in the vault, or in a locked compartment in a cashier's cage except that Chips may be locked in a transparent compartment on Gaming tables provided that there is adequate Security as Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999).

§4315. Redemption and Disposal of Discontinued Chips and Tokens

A. When the Casino Operator permanently removes from use or replaces Approved Chips or Tokens at its Gaming Establishment, or that ceases operating its Gaming Establishment, whether because of closure or sale of the establishment or any other reason, a plan must be prepared for redeeming discontinued Chips and Tokens that remain outstanding at the time of discontinuance. The Casino Operator must submit the plan in writing to the Division not later than 30 days before the proposed removal, replacement, sale, or closure, unless the closure or other cause for discontinuance of the Chips or Tokens cannot reasonably be anticipated, in which event the Casino Operator must submit the plan as soon as reasonably practicable. The Division may Approve the plan or require reasonable modifications as a condition of Approval. Upon Approval of the plan, the Casino Operator shall implement the plan as Approved.

B. In addition to such other reasonable provision as the Division may Approve or require, the plan must provide for:

1. redemption of outstanding or discontinued Chips and Tokens, in accordance with this Subsection, for at least 120 days after the removal or replacement of the Chips or Tokens or for at least 120 days after operations cease, as the case may be, or for such longer or shorter period as the Division may for good cause Approve or require;

2. redemption of the Chips and Tokens at the premises of the Gaming Establishment or at such other location as the Division may Approve;

3. publication of notice of the discontinuance of the Chips and Tokens and of the redemption and the pertinent times and locations in at least two newspapers of general circulation in Louisiana at least twice during each week of the redemption period, subject to the Division's Approval of the form of the notice, the newspapers selected for publication, and the specific days of publication;

4. conspicuous posting of the notice described in Subsection B.3 at the Gaming Establishment or other redemption location;

5. destruction or such other disposition of the discontinued Chips and Tokens as Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1979 (October 1999).

§4317. Destruction of Counterfeit Chips and Tokens

A. As used in this Subsection, *Counterfeit Chips or Tokens* means any Chip or Token-like objects that have not been Approved pursuant to this Chapter, including objects commonly referred to as *slugs*, but not including coins of the United States or any other nation.

B. Unless a court of competent jurisdiction orders otherwise in a particular case, the Casino shall destroy or otherwise dispose of counterfeit Chips and Tokens discovered at its establishment in such manner as the Division may Approve or require.

C. Unless a court of competent jurisdiction orders otherwise in a particular case, the Casino Operator may dispose of coins of the United States or any other nation discovered to have been unlawfully used at its establishment by including them in their coin inventories or, in the case of foreign coins, by exchanging them for United States currency or coins and including same in their currency or coin inventories, or by disposing of them in any other lawful manner.

D. The Casino Operator shall record, in addition to such other information as the Division may require:

1. the number and denominations, actual and purported, of the coins and counterfeit Chips and Tokens destroyed or otherwise disposed of pursuant to this Section;

2. the month during which they were discovered;

3. the date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank, exchange company, or other business or Person at which or with whom the coins are exchanged; and,

4. the names of the Persons carrying out the destruction or other disposition on behalf of the Casino Operator.

E. The Casino Operator shall maintain each record required by this subsection for at least 5 years, unless the Division Approves or requires otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1979 (October 1999).

§4318. Promotional and Tournament Chips and Tokens

A. As used in this Section, *Promotional Chip* means a Chip or Token-like object issued by the Casino Operator for use in promotions or tournaments at the Official Gaming Establishment.

B. Promotional Chips shall be designed, manufactured, Approved, and used in accordance with the provisions of these Regulations applicable to Chips and Tokens, except as follows:

1. Promotional Chips shall be of such shape and size and have such other specifications as the Division may Approve or require;

2. each side of each Promotional Chip shall conspicuously bear the inscription No Cash Value; and

3. Promotional Chips shall not be used, and the Casino Operator shall not permit their use in transactions other than the promotions or tournaments for which they are issued;

C. The provisions of these Regulations applicable to redemption and destruction do not apply to Promotional Chips.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1979 (October 1999).

§4319. Approval and Specifications for Dice

A. Unless the Division Approves otherwise, each dice used by the Casino Operator in its Gaming Establishment must meet the following specifications:

1. be formed in the shape of a perfect cube and of a size no smaller than 0.750 of an inch on each side nor any larger than 0.775 of an inch on each side, or .625 of an inch on each side for Pow Gai Poker;

2. be manufactured to an accuracy tolerance of no greater than .0002 of an inch;

3. be transparent and made exclusively of cellulose except for the spots, name of the Casino and serial numbers or letters contained thereon;

4. have the surface of each of its sides perfectly flat and the spots contained in each side perfectly flush with the area surrounding them;

5. have all edges and corners perfectly square, that is forming perfect 90 degree angles;

6. have the texture and finish of each side exactly identical to the texture and finish of all other sides;

7. have its weight equally distributed throughout the cube and no side of the cube heavier or lighter than any other side of the cube;

8. have its six sides bearing white circular spots from one to six respectively with the diameter of each spot equal to the diameter of every other spot on the die;

9. have spots arranged so that the side containing one spot is directly opposite the side containing six spots, the side containing two spots is directly opposite the side containing five spots and the side containing three spots is directly opposite the side containing four spots;

10. have the name of the Casino in which the die is being used imprinted or impressed thereon;

11. each spot shall be placed on the die by drilling into the surface of the cube and filling the drilled out portion with a compound equal in weight to the weight of the cellulose drilled out and which will form a permanent bond with the cellulose cube; and

12. each spot shall extend into the cube exactly the same distance as every other spot extends into the cube to an accuracy tolerance of 0.004 of an inch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1980 (October 1999).

§4321. Dice; Receipt, Storage, Inspections and Removal From Use

A. When dice for use at the Casino are received from the Manufacturer or Supplier thereof, they shall immediately following their receipt be inspected by a member of the Security department and a Gaming Supervisor to assure that the seals on each box are intact, unbroken and free from tampering. Boxes that do not satisfy these criteria shall be inspected at this time to assure that the dice conform to Division standards and are completely in a condition to assure fair play. Boxes satisfying these criteria, together with boxes having unbroken, intact and untampered seals shall then be placed for storage in a locked cabinet or storage area. The cabinet or primary storage area shall be located in a secure, controlled area, the location and physical characteristics of which shall be Approved by the Division or its authorized designee prior to implementation. The secondary storage areas shall be located in secure, controlled areas, the location and physical characteristics of which shall be Approved by the Division or its authorized designee prior to implementation. The primary and secondary storage areas will be used exclusively for the cards and dice.

B. The Casino Operator shall submit to the Division for Approval, procedures for:

1. A dice inventory system which shall include, at a minimum, the recordation of the following:

- a. the balance of dice on hand;
- b. the dice removed from storage;
- c. the dice returned to storage or received from the manufacturer;
- d. the date of the transaction; and
- e. the signatures of the individuals involved.

2. A physical inventory of the dice at least once every three months;

a. this inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of dice on hand; and

b. any discrepancies shall immediately be reported to the Division.

c. the Casino Operator shall retain the work papers developed and utilized for a physical inventory of the dice for a period of three years commencing on the day of completion of the inventory.

3. Cancellation and marking techniques for dice removed from play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1980 (October 1999).

§4323. Approval and Specifications for Cards

A. Unless the Division approves otherwise, cards used by the Casino Operator in its Gaming Establishment must meet the following specifications:

1. Physical characteristics of the cards:

a. cards used for play shall be in decks of 52 cards each with each card identical in size and shape to every other card in such deck;

b. each deck shall be composed of four suits—diamonds, spades, clubs and hearts;

c. each suit shall be composed of 13 cards-ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3, 2;

d. the backs of each card in the deck shall be identical and no card shall contain any marking, symbol or design that will enable a Person to know the identity of any element printed on the face of the card or that will in any way differentiate the back of that card from any other card in the deck;

e. the backs of all cards in the deck shall be designed so as to diminish as far as possible the ability of any Person to place concealed markings thereon;

f. the design to be placed on the backs of cards used by the Casino Operator shall be submitted to the Division for Approval prior to use of such cards in Gaming activity;

g. each deck of cards shall be packaged separately and shall contain a seal affixed to the opening of such package;

h. nothing in this section shall prohibit a Manufacturer from Manufacturing decks of cards with jokers contained therein provided such jokers are not used by the Casino Operator in the play of the Games.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1980 (October 1999).

§4325. Cards; Receipt, Storage, Inspections and Removal From Use

A. When decks of cards are received for use in the Casino from the Manufacturer or Supplier thereof, they shall be placed for storage in a locked cabinet area by at least two individuals, one of whom shall be the Gaming Supervisor and the other from the Security department. The cabinet or primary storage area shall be located in a secure, controlled area, the location and physical characteristics of which shall be Approved by the Division or its authorized designee prior to implementation. Any secondary storage areas shall be located in secure, controlled areas, the location and physical characteristics of which shall be Approved by the Division or its authorized designee prior to implementation.

B. The Casino Operator shall submit to the Division for Approval, procedures for:

1. a card inventory system which shall include, at a minimum, the recordation of the following:

- a. the balance of cards on hand;
- b. the cards removed from storage;
- c. the cards returned to storage or received from the Manufacturer;
- d. the date of the transaction; and
- e. the signatures of the individuals involved.

2. a physical inventory of the cards at least once every three months;

a. this inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of cards on hand required in (2)(a)(i) above;

b. any discrepancies shall immediately be reported to the Division;

c. the Casino Operator shall retain the work papers developed and utilized for a physical inventory of the cards for a period of three years commencing on the day of completion of the inventory.

3. cancellation and marking techniques for cards removed from play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1981 (October 1999).

§4327. Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers

A. A Manufacturer or Supplier shall not sell, lease or distribute Gaming Devices or Equipment in this State and the Casino Operator shall not offer Gaming Devices for play without first obtaining the requisite Permit or License and obtaining prior Approval by the Board for such Action. This Section shall not apply to those Manufacturers or Suppliers Licensed or Permitted to sell, lease or distribute Gaming Devices or Equipment in the state to an entity licensed under a provision of state law other than the Act when those Manufacturers or Suppliers are selling or distributing to such licensed entity. In the case of the distribution of Slot Machines there shall be a facility for the inspection of the Gaming Devices or another location for inspection, including the Casino, that is Approved by the Board.

B. Applications for Approval of a new Gaming Device must be made and processed in such manner and using such forms as the Division may prescribe. The Casino Operator may apply for Approval of a new Gaming Device. Each Application must 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 Gaming Device meets the standards set forth in this Section.

C. No Game or Gaming Device other than those specifically authorized in the Act may be offered for play or played at the Casino, except that the Division may authorize the operation of progressive Electronic Gaming Devices as part of a network of separate Gaming Operations Permitted by the Board with an aggregate prize or prizes allowed, subject to conditions imposed by the Division. Approval must be obtained from the Board prior to changing, adding, or altering the Casino configuration once such configuration has received final Board Approval. For the purpose of this Section, altering the Casino configuration does not include the routine movement of Gaming Equipment for cleaning and/or maintenance purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1981 (October 1999).

§4329. Minimum Standards for Electronic Gaming Devices

A. All Gaming Devices submitted for Approval:

1. shall be electronic in design and operation and must be controlled by a microprocessor or microcontroller or the equivalent;

2. shall theoretically pay out a mathematically demonstrable percentage of all amounts Wagered, which must 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;

3. shall use a random selection process to determine the Game outcome of each play of a Game. The random selection process must meet 99 percent confidence limits using a standard chi-squared test for goodness of fit and in addition:

a. each possible permutation or combination of Game elements which produce Winning or Losing Game outcomes must be available for random selection at the initiation of each play; and

b. the selection process must not produce detectable patterns of Game elements or detectable dependency upon any previous Game outcome, the amount Wagered, or upon the style or method of play.

4. shall display an accurate representation of the Game outcome. After selection of the Game outcome, the Gaming Device must not make a variable secondary decision which affects the result shown to the Player;

5. shall display the Rules of Play and payoff schedule;

6. shall not automatically alter paytables or any function of the device based on internal computation of the hold percentage;

7. shall be compatible to on-line data monitoring as required by the Division;

8. shall have a separate locked internal enclosure within the device for the circuit board containing the EPROM (Erasable Programmable Read Only Memory Chip);

9. shall be able to continue a Game with no data loss after a power failure;

10. shall have previous and current Game data recall;

11. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

12. shall contain a surge protector on the line that feeds power to the device. The battery backup or an equivalent for the electronic meters must be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the device. The backup shall be kept within the locked logic board compartment;

13. shall have an on/off switch that controls the electrical current used in the operation of the device which shall be located in an accessible place within its interior;

14. shall be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

15. shall have at least one electronic coin acceptor and may be equipped with an Approved currency acceptor. Coin and currency acceptors must be designed to accept designated coins and currency and reject others. The coin acceptor on a device must 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 must be capable of handling rapidly fed coins so that occurrences of inappropriate *coin-ins* are prevented;

16. shall not contain any hardware switches that alter the paytables or Payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

17. shall contain a non-removable identification plate containing the following information, appearing on the exterior of the device:

- a. manufacturer;
- b. serial number; and
- c. model number.

18. shall have a data format Approved by the Division;

19. shall be capable of continuing the current Game with all current Game features after a malfunction is cleared. This rule does not apply if a device is rendered totally inoperable. The current Wager and all credits appearing on the screen prior to the malfunction shall be returned to the Patron;

20. shall have attached a locked compartment separate from any other compartment of the device for housing a drop bucket;

21. shall have a locked compartment for housing currency, if so equipped with a currency acceptor;

22. shall, at a minimum, be capable of detecting and displaying the following error conditions which an attendant may clear:

- a. coin-in jam;
- b. coin-out jam;
- c. currency acceptor malfunction or jam;
- d. hopper empty or time-out;
- e. program error;
- f. hopper runaway or extra coin paid out;
- g. reverse coin-in;
- h. reel error; and
- i. door open.

23. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

24. shall have a mechanical, electrical, or electronic device that automatically precludes a Player from operating the device after a jackpot requiring a manual Payout and requires an attendant to reactivate the device; and

25. shall be outfitted with any other equipment required by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1981 (October 1999).

§4331. Progressive Slot Machines

A. As used in this Subsection:

Progressive Jackpot—means a slot machine payoff that increases automatically over time or as the machine or another is played.

Base Amount—means the amount of the progressive jackpot offered before it increases.

Incremental Amount—means the difference between the amount of a progressive jackpot and its base amount.

B. A meter that shows the amount of the progressive jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

C. The Casino Operator may limit a progressive jackpot to an amount that is equal to or greater than the amount of the jackpot when the limit is imposed. The Casino Operator shall post a conspicuous notice of the limit at or near the machine or machines to which the limit applies.

D. The Casino Operator 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 Casino Operator adjusts the progressive jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to paragraph 3 and the Casino documents the adjustment and the reasons for it;
3. the Casino'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 Casino Operator distributes the incremental amount to another progressive jackpot at the Licensee's establishment and:
 - a. the Casino documents the distribution;
 - b. any machine offering the jackpot to which the Casino 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 Chapter 29; 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 for good cause Approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which Approval is confirmed in writing.

5. The Casino Operator shall preserve the Records required by this Section for at least five (5) years after they are made unless the Supervisor Approves otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1982 (October 1999).

§4333. Computer Monitoring Requirements of Electronic Gaming Devices

A. The Casino Operator must have a computer connected to all Electronic Gaming Devices in the Casino to record and monitor the activities of such devices. No Electronic Gaming Devices shall be operated unless it is on-line and communicating to a computer monitoring system Approved by the Division. Such computer monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media Approved by the Division.

B. The computer permitted by Subparagraph (1) of this Subsection shall be designed and operated to automatically perform and report functions relating to Electronic Gaming Device meters, and other exceptional functions and reports at the Casino as follows:

1. record the number and total value of Tokens placed in the Electronic Gaming Device 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 Electronic Gaming Device;

4. record the number and Total value of tokens automatically paid by the Electronic Gaming Device 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 must be capable of logging in this data if such data is not directly provided by the Electronic Gaming Device;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the Electronic Gaming Device, including any device malfunction, any type of tampering, and any open door to the Drop area. In addition, any Person opening the electronic gaming device or the Drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry;

7. be capable of logging in and reporting any revenue transactions not directly monitored by Token meter, such as Tokens placed in the Electronic Gaming Device as a result of a fill, and any Tokens removed from the Electronic Gaming Device in the form of a credit; and

8. identify any Electronic Gaming Device taken off-line or placed on-line of the computer monitor system, including date, time, and Electronic Gaming Device identification number;

9. be capable of logging in and reporting the time, date and location of open doors or malfunctions by each Electronic Gaming Device.

C. The Casino shall store, in machine-readable format, all information required by paragraph B for the period of one year. The Casino Operator shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available in the format and media Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1983 (October 1999).

§4335. Employment of Individual to Respond to Inquiries From the Division

A. Each Manufacturer shall employ or retain an individual who understands the design and function of each of its Gaming Devices who shall respond within the time specified by the Division to any inquires from him concerning the Gaming Device or any modifications to the device. Each Manufacturer shall on or before December 31st of each year report, in writing, the name of the individual designated pursuant to this Section and shall report, in writing, any change in the designation within fifteen (15) days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1983 (October 1999).

§4337. Evaluation of New Gaming Devices

A. The Division may require transportation of not more than two working models of a new Gaming Device to a designated electronics laboratory for review and inspection. The Division may employ the services of an outside

electronics laboratory to evaluate the device or may rely on reports or tests required by other regulatory bodies in the United States. The Manufacturer seeking Approval of the device must pay the cost of the inspection and investigation. The laboratory may dismantle the models and may destroy electronic components in order to fully evaluate the device. The Division may require that the Manufacturer provide specialized equipment or the services of an independent technical expert to evaluate the device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1983 (October 1999).

§4339. Certification by Manufacturer

A. After completing its evaluation of a new Gaming Device, the lab shall send a report of its evaluation to the Division and the Manufacturer seeking Approval of the device. The report must include an explanation of the manner in which the device operates. The Manufacturer shall return the report within fifteen (15) days and shall either:

1. certify under penalty of perjury that to the best of its knowledge the explanation is correct; or

2. make appropriate corrections, clarifications, or additions to the report and certify under penalty of perjury that to the best of its knowledge the explanation of the Gaming Device is correct as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999).

§4341. Approval of New Gaming Devices

A. After completing its evaluation of the new Gaming Device, the Division shall determine whether the Application for Approval of the new Gaming Device should be granted. In considering whether a new Gaming Device will be given final Approval, the Division shall consider whether Approval of the new Gaming Device is consistent with the public policy of the State. Division Approval of a Gaming Device does not constitute certification of the device's safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999).

§4343. Duplication of Program Storage Media

A. The Casino, other than a Manufacturer, shall not duplicate the contents of Gaming Device program storage media unless its duplication process has received prior written Approval from the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999).

§4345. 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 must 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 device and on a removable metal plate attached to the cabinet of the device; and

2. prior written Approval has been obtained from the Division;

3. immediately upon request in a format Approved by the Division 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.

B. A registration fee of ten dollars per Gaming Device shall be paid to the Division by the Manufacturer prior to shipment of said device to the Casino Operator or supplier within the State. This fee is applicable only to Gaming Devices destined for use in Louisiana by the Casino or Suppliers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999).

§4347. Approval to Sell or Dispose of Gaming Devices

A. No Gaming Device registered by the Division shall be disposed of without prior written Approval of the Division. The Casino Operator shall not sell to 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. Applications for Approval to sell or dispose of a registered Gaming Device must be made, processed, and determined in such manner and using such forms as the Division may prescribe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999).

§4349. Maintenance of Gaming Devices

A. The Casino Operator shall not alter the operation of an Approved Gaming Device except as provide otherwise in the Regulations and shall maintain the Gaming Devices in a suitable condition. Each Licensee shall keep a written list of repairs made to the Gaming Device offered for play to the public that require a replacement of parts that affect the Game outcome and shall make the list available for inspection by the Division upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999).

§4351. Analysis of Questioned Electronic Gaming Devices

A. If the operation of any Electronic Gaming Device is questioned by the Casino, Patron or an Agent of the Division and the question cannot be resolved, the questioned device will be examined in the presence of an Agent of the Division and a representative of the Casino. If the malfunction can not

be cleared by other means to the satisfaction of the Division, the Patron and the Casino, the Electronic Gaming Device will be subjected to an EPROM memory test to verify signature comparison by the Division.

B. In the event that the malfunction can not be determined and corrected by this testing, the electronic Gaming Device may be removed from service and secured in a remote, locked compartment. The Electronic Gaming Device may then be transported to an industry-recognized laboratory selected by the Division where the device shall be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis must be borne by the Casino.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1984 (October 1999).

§4353. Summary Suspension of Approval of Gaming Devices

A. The Division may issue an order suspending Approval of a Gaming Device if it is determined that the device does not operate in the manner certified by the testing laboratory pursuant to this Chapter. The Division after issuing an order may thereafter seal or seize all models of that Gaming Device not in compliance with the Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999).

§4355. Approval of Associated Equipment; Applications and Procedures

A. A Manufacturer or Supplier of Associated Equipment and/or Non-Gaming products shall not distribute Associated Equipment and/or Non-Gaming products unless such Manufacturer and/or Supplier has been Approved by the Division. 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 may prescribe. Each Application must include, in addition to such other items or information as the Division may require:

1. the name, permanent address, social security number or federal tax identification number of the Manufacturer or Supplier of Associated Equipment and Non-Gaming products unless the Manufacturer or Supplier is currently Permitted by the Division. 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 must 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 must be included. If social security numbers or driver's license numbers are not available, the birth date of the partners may be substituted;

2. a complete, comprehensive and technically accurate description and explanation in both technical and non-technical language of the equipment and its intended usage, signed under penalty of perjury;

3. detailed operating procedures; and

4. details of all tests performed and the standards under which such tests were performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999).

§4357. Evaluation of Associated Equipment

A. The Division, if necessary, may require transportation of not more than two (2) working models of Associated Equipment to a designated lab for review and inspection. The lab may dismantle the Associated Equipment and may destroy electronic components in order to fully evaluate the equipment. The Division may require the Manufacturer or Supplier seeking Approval to provide specialized equipment or the services of an independent technical expert to evaluate the equipment, and may employ an outside laboratory to conduct the evaluation. The Manufacturer seeking Approval of the Associated Equipment must pay the cost of the evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999).

Chapter 45. Labor Organizations

§4501. Labor Organization Registration Required

A. Each labor organization, union or affiliate representing or seeking to represent employees Permitted by the Board and employed by the Casino Operator, shall register with the Board annually.

B. The Board may exempt any labor organization, union or affiliate from registration requirements where it is found that such labor organization, union or affiliate:

1. is not the certified bargaining representative of any employee Permitted under this chapter or employed by the Casino Operator; and

2. is neither involved nor seeking to be involved actively, directly, or substantially in the control or direction of the representation of any such employee.

C. Such exemption shall be subject to revocation upon disclosure of information which indicates that the affiliate does not or no longer meets the standards for exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999).

§4503. Registration Statement

A. In order to register, a labor organization, union or affiliate shall file with the Board a *Labor Organization Registration Statement*. These requirements shall be completed and Approved by the Board prior to the labor organization becoming the certified bargaining representative for employees occupationally Permitted to work for the Casino Operator.

B. Said statement shall be in the form prescribed by the Board and shall include, without limitation, the following:

1. the names of all labor organizations affiliated with the registrant;

2. information as to whether the registrant is involved or seeking to be involved actively, directly or substantially in the control or direction of the representation of any

employee Permitted by the Board and employed by the Casino Operator;

3. information as to whether the registrant holds, directly or indirectly, any financial interest whatsoever in the Casino Operator whose employees it represents;

4. the names of any pension and welfare systems maintained by the registrant and all officers and agents of such systems;

5. the names of all officers, agents and principal employees of the registrant; and

6. all written assurances, consents, waivers and other documentation required of a registrant by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1985 (October 1999).

§4505. Registration Renewal

A. A labor organization registration shall be effective for one year. Any such registration may be renewed upon filing of an updated "Labor Organization Registration Statement" no later than 120 days prior to the expiration of the current registration. The Board shall act upon such application for renewal no later than 30 days prior to the date of expiration of the current registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999).

§4507. Continuing Duty to Disclose

A. Every registered labor organization shall be under a continuing duty to promptly disclose any change in the information contained in the "Labor Organization Registration Statement" or otherwise requested by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999).

§4509. Federal Reports Exception

A. Notwithstanding the reporting requirements imposed by the Regulations of the Board, no labor organization, union, affiliate or Person shall be required to furnish any information which is included in a Report filed by any labor organization, union, affiliate or Person with the Secretary of Labor, pursuant to 29 U.S.C., section 431, et seq. (Labor-Management Reporting and Disclosure Act) if a copy of such Report, or if the portion thereof containing such information, is furnished to the Board pursuant to the aforesaid Federal provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999).

§4511. Qualification of Officers, Agent, and Principal Employees

A. Every officer, Agent and principal employee of a labor organization, union or affiliate required to register with the Board pursuant to this Chapter and the Regulations of the Board shall be qualified in accordance with criteria contained in Land-Based Gaming Division Regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999).

§4513. Qualification Procedure

A. In order to be qualified, every officer, agent and principal employee of a labor organization, union or affiliate required to register with the Board pursuant to the Regulations of the Board shall file with the Board a *Labor Organization Individual Disclosure Form*, which shall be completed, signed and filed in accordance with the requirements of this chapter, provided, however, that such a form need not be filed by an officer of a national or international labor organization where that officer exercises no authority, discretion or influence over the operation of such labor organization with regard to any employment matter relating to employees Permitted under the act and employed by the Casino Operator; and provided further, that any such officer of a national or international labor organization may be directed by the Board to file a *Labor Organization Individual Disclosure Form* or to provide any other information in the same manner and the same extent as may be required of any other officer of a labor organization which is required to register under this Chapter.

B. Each officer, agent or principal employee required to file, a *labor organization individual disclosure form* shall do so initially at the time the pertinent labor organization, union or affiliate applies or should apply for registration or at the time the individual is elected, appointed or hired, whichever is later.

1. Following an initial finding of qualification, each qualified individual who has filed an initial *labor organization individual disclosure form* shall annually file with the Board a properly completed, updated *labor organization individual disclosure form*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999).

§4515. Waiver of Disqualification Criteria

A. Notwithstanding the qualification requirements as to any such officer, agent or principal employee, the Board may waive any disqualification criteria upon a finding that the Interests of justice so require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999).

§4517. Interest in Operator's License Prohibited

A. Neither a labor organization, union, or affiliate nor its officers, and agents not otherwise individually Permitted under the Act and employed by the Casino Operator may hold any financial Interest whatsoever in the Casino Operator whose employees they represent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1986 (October 1999).

§4519. Failure to Comply; Consequences

A. No labor organization, union or affiliate required to register with the Board shall receive any dues from or on behalf of or administer any pension, welfare funds from or on behalf of any Permitted employee and employed by the Casino Operator or its Agent:

1. if the said labor organization, union, or affiliate shall fail to properly register with the Board or provide all information requested by the Board in accordance with the provisions of this Chapter or the Regulations of the Board;

2. if any officer, agent or principal employee of such labor organization, union, or affiliate shall fail to qualify in accordance with the provisions of this Chapter or the Regulations of the Board; or

3. if the said labor organization, union, affiliate or any officer or agent thereof shall hold a prohibited Interest in the Casino Operator.

B. Nothing herein shall be construed to limit the right of the Board to impose any sanctions or take any action authorized by these Regulations and the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1987 (October 1999).

Hillary J. Crain
Chairman

9910#033

RULE

**Department of Revenue
Severance Tax Division**

Severance Tax Credits and Exemptions
(LAC 61:I.2905-2907)

As authorized by Acts 1998, No. 4, which repealed R.S. 47:7, and Acts 1994, No. 2, which repealed R.S. 646.1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Severance Tax Division, has repealed LAC 61:I.2905 and 2907.

Section 2905 provided for administration of the tax credits to municipalities operating a manufacturing establishment or an electric generating plant based on the amount of natural gas consumed in these operations granted under R.S. 47:7. Act 4 of the 1998 Regular Legislative Session repealed R.S. 47:7. Prior to the repeal of R.S. 47:7, Act 5 of the First Extraordinary Session of 1988 had abolished the funding for this program and the specific paragraphs related to funding were repealed by Act 984 of the 1992 Regular Legislative Session.

Section 2907 provided for administration of a severance tax exemption for newly discovered wells granted under R.S. 47:646.1 et seq. Under this provision, working-interest owners were allowed an exemption from 50 percent of the severance taxes on the oil or gas produced from a newly discovered field for 24 months from the date that regular production was begun. Act 2 of the 1994 Regular Legislative Session repealed R.S. 646.1 to 646.5.

Repeal of LAC 61:I.2905 and 2907, which provided for administration of severance tax exemptions for which the statutes have been repealed, has no effect and are considered housekeeping.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 29. Natural Resources: Severance Tax

**§2905. Provisions Relating to Tax Credits to
Municipalities**

Repealed.

**§2907. Severance Tax Exemption for Newly Discovered
Wells**

Repealed.

Carl Reilly
Director

9910#036

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Tilapia (LAC 76:VII.903)

(Editor's Note: The following notice, which appeared on page 899 of the May 20, 1999 Louisiana Register, is being republished in its entirety to correct a typographical error in the department name.)

The Secretary of the Department of Wildlife and Fisheries does hereby amend the rule governing importation, culture, possession, disposal and sale of tilapia in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture—Exotic Species

§903. Tilapia

A. Rules and Regulations on Importation, Culture, Possession, Disposal and Sale of Tilapia in Louisiana. The following terms shall have the following meanings in this Section.

Culture—all activities associated with the propagation and nurturing of tilapia.

Culture Permittee—the individual or organization that possesses a valid Louisiana tilapia culture permit.

Culture System—shall be an approved indoor system designed such that all water containing, or that at any time might contain, tilapia (adult fish, juvenile fish, fry, or fish eggs) is filtered, screened and/or sterilized in such a manner as the department deems adequate to prevent any possibility of escape from the system.

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the Department.

Disposal—the business of processing, selling, or purposely removing tilapia from the culture system.

Live Holding Permittee—the individual or organization that possesses a valid Louisiana tilapia live holding permit.

Live Holding System—an approved indoor holding or display system designed such that all water containing, or at any time might contain, tilapia (adult fish, juvenile fish, fry or fish eggs) is filtered, screened and/or sterilized prior to

release in such manner as the department deems adequate to prevent any possibility of escape.

Process—the act of chill killing whole tilapia in an ice slurry for a period of not less than 60 minutes, or removal of tilapia intestines followed by immersion in an ice slurry for a period of not less than two minutes or removal and proper disposal of tilapia heads in such manner as the department deems necessary to prevent any possibility of accidental release of fry or fertilized eggs.

Secretary—the Secretary of the Department of Wildlife and Fisheries.

Tilapia—eggs, fish, or body parts belonging to the genera *Tilapia*, *Sarotherdon*, or *Oreochromis* and their hybrids.

Tilapia Culture Permit—official document pertaining to culture that identifies the terms of, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia in Louisiana as approved by the secretary or his designee.

Tilapia Live Holding Permit—official document pertaining to live holding for retail sale that identifies the terms of, and allows for the possession and sale of tilapia in Louisiana as approved by the secretary or his designee.

B. Tilapia Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, possess, dispose, transfer or sell live tilapia in Louisiana must first request a tilapia culture or live holding permit from the secretary or his designee of the Department of Wildlife and Fisheries. The following procedures will be necessary.

a. Applications for permits can be obtained by contacting the Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000.

b. The completed applications should be returned to the same address whereby Inland Fisheries Division personnel will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture or live holding system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a tilapia culture or live holding permit. Department personnel will then recommend to the secretary or his designee if the applicant's request should be approved or disapproved.

* * *

C. Rules on Transport of Live Tilapia

1. The department shall be notified in writing at least 24 hours prior to shipments of live tilapia from one Louisiana culture permit holder to another Louisiana culture permit holder or live holders within the state or shipments out-of-state on a form provided by the department. Notification shall include Louisiana tilapia culture permit number, route, date and time(s) of transport, destination, owner of transport vehicle, total number of each species, permit number of resident tilapia culturer or live holder, and a copy or reference to electrophoretic certification of shipped stock by species. Anyone possessing live tilapia within the State must have a tilapia culture or live holding

permit. Live tilapia showing signs of diseases shall not be transported into or within the State of Louisiana.

2. For each occurrence of tilapia being imported into Louisiana from out of state to a permitted resident culturer or live holder, the permittee must obtain, in writing, approval from the department. Procedures and necessary information for obtaining approval are:

a. requests shall be made to: Administrator, Inland Fisheries Division, Louisiana Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, Louisiana 70898-9000;

b. requests shall include:

i. Louisiana tilapia permit number, or a copy of the permit;

ii. route of transport;

iii. date of transport;

iv. time(s) of transport;

v. destination;

vi. owner of transport vehicle;

vii. electrophoretic certification made within the past thirty days identifying shipped stock(s) to species.

viii. total number of each species;

ix. identification of seller and buyer.

3. A bill of lading must accompany the live tilapia during import, export, transport, transfer or sale and shall include:

a. copy of the permittee's written approval as described in LAC 76:VII.903.C.2. above;

b. date and approximate time of shipment;

c. route of shipment;

d. source of tilapia (culture facility);

e. name, address and phone number of seller;

f. name, address and phone number of buyer;

g. identification and certification as to species;

h. total number of each species;

i. destination;

j. letter from source stating that tilapia are not showing signs of diseases;

k. display the word "TILAPIA" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than six inches high.

D. Rules for Security of Tilapia Culture or Live Holding Facility

* * *

4. It shall be the responsibility of the permittee to immediately notify the secretary or his designee of any tilapia that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases, theft, etc.

* * *

E. Rules of Tilapia Culture and Live Holding Site

* * *

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property, culture system or live holding system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these

inspections may remove or take fish samples for analysis and/or inspection.

4. The department will require a live holding contingency plan for disposal of live tilapia in the event of impending flooding or other natural disasters.

F. Rules for the Tilapia Culture and Live Holding System

1. Applicant must provide a detailed narrative description, including scale drawings, of the tilapia culture or live holding system.

2. The tilapia culture or live holding system shall be an approved indoor system designed such that tilapia eggs, larvae, juveniles or adults cannot escape.

3. All water utilized in the culture or live holding of tilapia shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture or live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the tilapia culture or live holding system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of tilapia through chlorination, desiccation, or other appropriate methods, in the event of an emergency must be included as a component of any department-approved live-holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department's satisfaction a basic knowledge and understanding of the culture, biology, and potential local ecological impacts of tilapia.

G. Rules for the Processing of Tilapia

1. All tilapia and tilapia parts other than live tilapia specifically permitted by the department must be properly processed and killed prior to leaving the tilapia culture or live holding facility.

3. Records shall be kept of all tilapia processed at a culture or live holding facility and shall include the following information:

- a. source of fish;
- b. processed pounds;
- c. date processed.

4. A copy of this information shall be sent to the Department's Baton Rouge office at the end of each year, or at anytime upon the request of Department officials.

H. General Rules for Tilapia

1. The cost of a Tilapia Culture or Live Holding Permit shall be \$50, plus the actual cost of the on-site inspection. Qualified universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following license is required as a prerequisite:

- a. a Fish Farming License for tilapia culturers;
- b. a Retail Dealers License for live holders.

5. Live tilapia, may be sold within the state only to a holder of a valid tilapia culture or live holding permit. A tilapia culture permit shall be required for the possession or transport of tilapia eggs, fry or juveniles.

9. Tilapia culturers shall be required to submit an annual report to the secretary or his designee on a form provided by the department.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the tilapia culturer shall, at the option of the department, post a \$25,000 performance bond, or present a letter of credit from a financial institution stating that the \$25,000 is available to the department on a certificate of deposit. Tilapia live holder permittees will be required to post a \$10,000 performance bond, or present a letter of credit from a financial institution stating that the \$10,000 is available to the department on a certificate of deposit.

12. If a permittee terminates tilapia production or live holding, the permittee shall notify the secretary or his designee immediately and dispose of the tilapia according to methods approved by the department.

13. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All tilapia shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:804 (August 1991), amended LR 20:1022 (September 1994), LR 21:594 (June 1995), LR 25:1987 (October 1999).

James H. Jenkins, Jr.
Secretary

9910#037

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass Regulations—Lake
Fausse Point/Lake Dauterive
(LAC 76:VII.189)

The Wildlife and Fisheries Commission hereby establishes the following rule on black bass (*Micropterus spp.*) on the

Lake Fausse Point/Lake Dauterive complex located west of the West Atchafalaya Basin Protection Levee 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

§189. Black Bass Regulations, Lake Fausse Point/Lake Dauterive Complex

A. The harvest regulations for black bass (*Micropterus spp.*) on the Lake Fausse Point/Lake Dauterive complex located west of the West Atchafalaya Basin Protection Levee in Iberia and St. Martin Parishes, Louisiana are as follows.

1. Size limit: It shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 14 inches total length.

2. Daily take: No more than 10 fish.

B. These regulations apply to all areas west of the West Atchafalaya Basin Protection Levee from Highway 3083 to the U.S. Army Corps of Engineers locks at the Charenton

Drainage and Navigation Canal, north of and including the Charenton Drainage and Navigation Canal from the Corps of Engineers locks to Highway 87, north and east of Highway 87 from the Charenton Drainage and Navigation Canal to Highway 320, east of Highway 320 from Highway 87 to Highway 86, south and east of Highway 86 from Highway 320 to Highway 345, east of Highway 345 from Highway 86 to Highway 679, east of Highway 679 from Highway 345 to Highway 3083 and south of Highway 3083 from Highway 679 to the West Atchafalaya Basin Protection Levee.

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 25:1989 (October 1999).

Bill A. Busbice, Jr.
Chairman

9910#038

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Seed Commission

Fees; Bulk Certification Requirements
(LAC 7:XIII.143 and 147)

In accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950 et seq., The Department of Agriculture & Forestry, Office of the Louisiana Seed Commission, proposes to amend the bulk certification requirements and fees assessed for bulk certification.

The Department of Agriculture and Forestry, Louisiana Seed Commission intends to adopt these rules and regulations for the purpose of allowing rice seed to be certified in bulk as opposed to limiting rice seed certification to small containers.

These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

§143. Fees

A. - E. ...

F. Fees for Bulk Seed Certification. The fee for issuance of a Bulk Certified Seed Form or Certificate shall be eight cents per hundred-weight.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984), repealed and readopted by the Department of Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), amended LR 14:604 (September 1988), LR 16:847 (October 1990), LR 25:

§147. Bulk Certification Requirements

A. Limitations

1. Bulk certification shall be limited to the certified class of the following commodities:

- a. small grains (wheat and oats);
- b. rice.

2. - 3. ...

4. Seed certified in bulk shall only be sold by the applicant producer or by an approved retail facility. Each retail outlet must have an acceptable procedure for handling bulk certified seed to assure genetic purity and identity are maintained.

B. ...

C. Storage Requirements

1. A separate storage bin must be available for each variety that will be sold in bulk.

2. Storage bins must be constructed so that all bin openings can be sealed to prevent contamination and maintain genetic purity.

3. All bins must be clearly and prominently marked to show crop and variety, until disposal of the entire lot.

D. Sampling of Seed to be Certified in Bulk. Seed sampling shall be conducted as provided in §137.D, except that, at the option of the applicant, the sample to determine germination is drawn.

E. Certification

1. No certified seed tags will be issued for seed certified in bulk, except as provided by §147.F.

2. For sales to an approved retail facility within the state, a Bulk Certified Seed Transfer Form will be issued to cover all bulk certified seed which meets the general requirements for seed certification and the specific requirements for the crop/variety being certified.

a. The seller shall provide a copy of the Bulk Certified Seed Transfer Form to each purchaser at time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Transfer Form to the Department of Agriculture and Forestry.

c. The seller shall maintain a copy of each issued Bulk Certified Seed Transfer Form in his file, which shall be available for examination by the Department of Agriculture and Forestry upon reasonable request.

3. For sales to its final disposition, a Bulk Certified Seed Sales Certificate will be issued to cover all bulk certified seed which meets the general requirements for seed certification and the requirements for the crop/variety being certified.

a. The seller shall provide a copy of the Bulk Certified Seed Sales Certificate to each purchaser at the time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Sales Certificate to the Department of Agriculture and Forestry.

c. The seller shall maintain a copy of each issued Bulk Certified Seed Sales Certificate in his file, which shall be available for examination by the Department of Agriculture and Forestry upon reasonable request.

F. Subsequent Packaging of Seed Certified in Bulk

1. If the owner of seed certified in bulk later elects to package any remaining portion of the lot, the owner must give prior notification of his intention to package the seed to the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), repealed and readopted LR 12:825 (December 1986), amended LR 23:1283 (October 1997), LR 25:

All interested persons may submit written comments on the proposed rules through November 24, 1999, to Benjy Rayburn, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data,

views or arguments in writing at the address above. No preamble concerning the proposed rules is available.

Family Impact Statement

The proposed amendments to rules LAC 7:XIII.143 and 147 regarding bulk certification requirements for rice and small grains should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fees; Bulk Certification Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to local governmental units. The Louisiana Department of Agriculture and Forestry intends to amend the rules and regulations for the purpose of allowing rice seed to be certified in bulk as opposed to limiting rice seed certification to small containers. The proposed rule change will result in a minimal increase in the expenditure of funds due to the printing of forms which will be used for the certification of bulk seed. Expenditures will be offset by the fees collected for bulk certification.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department should collect additional revenues due to the assessment of an \$.08 per hundred-weight fee on bulk certified rice and small grain seed. An exact amount is not ascertainable at this time. The increase in revenue could be offset by decreases in revenue due to fewer certifications for seeds in containers.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The cost to certified rice and small grains seed producers will be \$.08 per hundred pounds bulk certified. There will be an economic benefit derived from growers producing seed certified under this program, because they will be able to obtain maximum market price for their product. Also, bulk certification makes the seed more marketable, because commercial rice producers prefer to take delivery of seed in bulk. There is no estimate at this time of the economic benefit to these seed producers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Certified rice and small grains seed producers in Louisiana will be more competitive with those in other states who already have similar standards in place.

Skip Rhorer
Assistant Commissioner
9910#041

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of State Parks

Rules and Regulations (LAC 25:IX.303-331 and 501-507)

The Office of State Parks proposes to amend LAC 25:IX.303-331 and 501-507 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and the statutory provisions of R.S. 56:1681 et seq.

The proposed amendments amend the reservation procedure and simplify rate structure to accommodate the introduction of the agency's new automated reservation system. The amendments also organize and clarify the rules, reflect the statutory name change of state commemorative areas to state historic sites, and provide for related matters.

The proposed rule will have no anticipated impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 3. Rules and Regulations

§303. Park Property and Environment

A. The provisions of the Louisiana Criminal Code (R.S. 14:1 et seq.) shall be enforced on state park property.

B. No person shall intentionally remove, damage disturb, or destroy state park property or the property of another person, without the consent of the owner. "Property" shall include structures, watercraft, movables, signs, markers, natural features, wildlife, and plants.

C. No timber may be cut, destroyed, or damaged except as necessary to meet established park management criteria, including insect control, public safety, and approved park construction. No timber cutting or removal may occur without the written permission of the assistant secretary or his designee.

D. No building, structure, or other park feature may be altered, erected, or constructed without written consent of the assistant secretary or his designee.

E. The assistant secretary shall, upon recommendation of the site manager, approve a carrying capacity for each state park area. Once a carrying capacity has been reached, or when additional visitors would adversely impact the park, the site manager is authorized to close the park site to incoming visitors.

F. Food, beverages, and smoking are prohibited in structures or areas containing historical furnishings or displays except in designated meeting rooms and assembly locations, or in conjunction with park programs.

G. ...

H. No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on any park.

I. No plant material may be planted or otherwise introduced on any state park without the written approval of the assistant secretary or his designee.

J. Visitors to historic sites are prohibited from leaving designated interpretive trails and may not walk on historic earthworks, fortifications, mounds or like features without specific permission of the site manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 25:

§305. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on state park property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for vehicular park traffic unless otherwise authorized by the site manager.

C. Vehicles, including recreational vehicles, motorcycles, and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the site manager.

D. No person shall operate a vehicle in excess of 15 miles per hour on park property unless otherwise posted.

E. Only vehicles that have been properly licensed by the appropriate regulatory agencies may be operated on the public roads of state parks. Exceptions to this provision may be granted in advance on a case by case basis by the site manager.

F. No person shall clean, service and/or repair any vehicle on state park property except in emergency situations and in designated areas.

G. Vehicles will be considered abandoned when left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. No person shall remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 25:

§307. Water Craft

A. Federal, state, and local laws, rules and ordinances related to the use of water craft shall be enforced. The operation of all water craft in and on all waters or streams, on or adjacent to park property, must be done in a careful and reasonable manner, and is subject to the rules of safety imposed by the laws of Louisiana and by the United States Coast Guard.

B. Every owner and operator of a motor boat, vessel or other water craft shall carry at least one life preserver, life belt, ring buoy, or other device of the sort prescribed by state and federal law for each person on board so placed as to be readily accessible.

C. Boats shall be launched only from designated boat ramps or launching areas within a park.

D. Persons renting boats must return the boat to the original docking location after use, and secure from unauthorized use.

E. No boat may be operated in a designated swimming area or in any other area designated by signs or any area restricted from boat operation or docking.

F. Boats left docked and unattended must be properly secured in designated areas only. The Office of State Parks will not be responsible for theft or damage to boats, equipment or supplies left unattended.

G. Boats will be considered abandoned when left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Commercial boats (defined as any craft capable of carrying five or more persons for hire, any craft having a water displacement of five tons or more, whatever the length, or any craft from which commercial activities are conducted involving shrimping, crabbing, fishing, etc.) are prohibited from using any state park facility without the written consent of the assistant secretary. Loading or unloading of materials, boarding of persons, operating power equipment and non-emergency repair work are prohibited.

I. All or portions of water bodies adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic shelters, pavilions, or other facilities shall be designated No WAKE AREAS. Signs and/or buoys will mark the water bodies or portions thereof so designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 25:

§309. Horseback Riding, Livestock, Animals and Pets

A. Horseback riding is allowed only in specially designated areas and/or as part of special program events approved in advance by the assistant secretary.

B. Dogs and other pets are not allowed to run at liberty in the parks. Any pet brought within the park area must be leashed, caged or crated, and will not be permitted within buildings or other enclosed structures of the park (the leash is not to exceed five feet in length). Only seeing-eye dogs will be permitted near designated swimming areas and in overnight facilities. Owners of pets causing any injury or damage will be fully responsible.

C. No person shall allow his livestock to run or graze on park property, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. No pets are allowed on state preservation areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:633 (December 1982), LR 12:89 (February 1986), amended LR 14:772 (November 1988), LR 25:

§310. Litter, Sanitation and Health

A. No person shall throw, drop, deposit, discard, permit the intentional or accidental ejection, emission, or escape of, or otherwise dispose of litter upon any state park property, except: When litter is placed into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon state park property or water bodies.

B. No person shall drain or dump refuse waste from any trailer or other vehicle except in places or receptacles provided for such uses.

C. Cleaning fish or food, or washing clothing or articles of household use can only be done at designated areas.

D. No person shall discharge or allow to be discharged into any waters of the state any waste or substance of any kind that will tend to cause pollution of water used for human consumption or swimming.

E. Depositing, except into receptacles provided for that purpose, any body waste in or on any portion of any comfort station or any public structure, or depositing any bottles, cans, cloth, rags, metal, wood, stone, or other damaging substance in any of the fixtures in such stations or structures is prohibited.

F. No person shall use refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought to a park.

G. Burial of garbage, litter, or dead animals on park property is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 25:

§311. Repealed. (provisions moved and amended in §331)

§312. Fires

Fires shall be built only in places specifically designated for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§314. Swimming

A. Swimming is permitted only at designated places, and at the swimmer's own risk.

B. All children under 12 years of age must be accompanied by an adult at any swimming area.

C. The capacity of all pools and beach areas is determined, regulated and enforced by the site manager.

D. Glass containers of any kind are prohibited within any perimeter boundaries of pools, enclosed swimming areas, enclosed beach areas, and beach parks.

E. No food or drinks are allowed within enclosed pool and enclosed beach areas with the exception of concessions sold at the Bayou Segnette State Park wave pool.

F. Only Coast Guard approved Type I or Type II Personal Flotation Devices are allowed at swimming areas with the exception of flotation devices provided by the Office of State Parks at the Bayou Segnette State Park wave pool.

G. No swimming at any beach will be permitted from sunset to sunrise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 25:

§315. Amplified Sound Equipment

A. No person shall play amplified musical instruments within park areas except when approved by the assistant secretary or his designee. No person shall play non-amplified musical instruments, radios, televisions, tape

players and similar equipment in such a manner which could disturb other visitors

B. No person shall operate or use any public address systems, whether fixed, portable, or vehicle mounted, without prior approval of the assistant secretary or his designee.

C. Remote public broadcast activities must be approved by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§317. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages in a park. The consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the park by other park users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§319. Business Activities

A. No one may sell or offer for sale any merchandise or service in a park area without the written consent of the assistant secretary or his designee.

B. No one may distribute, post, place, or erect any advertising device in the park area without the written consent of the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§321. Fines and Enforcement of the Rules and Regulations

A. In addition to any other penalty provided by law, persons violating these rules and regulations are subject to administrative fines for each violation of not less than \$15 nor more than \$250 (R.S. 56:1689), eviction from the park, and/or restitution to the state for damages incurred.

B. Site managers and other park agents, including rangers, watchmen, and guards, may be certified as "Park Wardens." State Park wardens, in addition to the authority otherwise conferred by law upon such officers, are vested with the same authority and powers conferred by law upon regular law enforcement officers of this state. State park wardens have specific authority and responsibility to enforce all rules, regulations, and laws within the limits of their jurisdiction.

C. No person shall enter a park:

1. when the park is closed;
2. without proper registration;
3. in addition to any penalties otherwise provided by law, any person violating this subsection will be subject to an administrative fine of not less than \$25.

E. Park users may be required to furnish specific information upon registration, including but not limited to,

vehicle license plate number, a driver's license number, state of residency, place of employment, date of birth, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§323. Repealed. (provisions moved and amended in §315)

§325. Repealed. (provisions moved and amended in §317)

§327. Repealed. (provisions moved and amended in §319)

§321. Repealed. (provisions moved and amended in §321)

§330. Day Use

A. Day-use facilities such as barbecue pits, tables, etc., which do not require prior reservations shall not be reserved by placing personal articles at these facilities prior to their immediate use. This includes firewood, ice chests, or any other personal property. The use of all such facilities is on a first come, first served basis.

B. The use of any facility in a park area is subject to certain conditions or policies set down on an individual facility basis by the site manager. These conditions or policies must be approved in writing by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 25:

§331. Overnight Use

A. General Provisions - Overnight Use

1. Any overnight use of a park requires a written permit or cash receipt from the park. Overnight facilities are reserved for the exclusive use of persons properly permitted for the use of overnight facilities and their guests. An exception to this rule will be made for volunteers camping at a state historic site as part of an approved overnight encampment program.

2. Permittee may not transfer or assign any use permit nor sublet any facility or part thereof.

3. The site manager has the authority to require registration of every person occupying a campsite or overnight facility.

4. Any permit may be terminated by the assistant secretary or by the site manager upon the violation of any established park rule, regulation, or any condition of the permit.

5. Lock combinations are issued for the personal use of the permittee, who is prohibited from allowing others to use the lock combination, or otherwise making the facilities open so that others not covered by the permit may enter or leave the facility or area.

6. All overnight facilities have a check in time of 3 p.m. and a check out time of 11 a.m., except campsites, which have a check out time of 1 p.m. Extensions may be approved by the park manager. Subject to availability, overnight facilities may be available to the user before the check in time.

7. Established time schedules (check in and check out) are strictly enforced. Failure to comply without advanced approval of the park manager may result in additional charges and denial of any future use of the facility.

8. Overnight users must maintain a reasonably quiet facility between the hours of 10 p.m. and 6 a.m.

9. No overnight user may erect or display unsightly or inappropriate structures or features which, in the opinion of the park manager, may create a disturbing or otherwise unpleasant condition detrimental to the general park use.

10. No permittee may repair or install any park equipment or furnishings unless authorized and supervised by the park manager.

11. In no case will public residency be allowed in a state park.

12. Parking for boat trailers and additional vehicles may be allowed at the discretion of the site manager or his designee, subject to individual site suitability for such purposes.

13. Permittee waives and releases all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

B. Camping

1. With the exception of a campground host, overnight camping and group camp, lodge and cabin use are limited to fifteen (15) consecutive days. At the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24 hour continuous period under any permit agreement.

2. State parks' campgrounds are intended for tents and recreational vehicles only.

3. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

4. Campsite configurations within the system vary in size, length, and surfacing materials. Camping spurs are designed to accommodate one camper/pop-up trailer with tow vehicle or one motorized camper and additional vehicle. Additionally, many parks will have designated tent pads adjacent to the spur. The site manager or his designee will have the authority to evaluate additional possible combinations for on site approval. Due to the numerous possible potential combinations, the following are to be used for general guidelines subject to variance by the site manager or his designee:

a. one camper trailer with tow vehicle (may include pickup camper), one large tent or two small tents;

b. one motorized camper with additional vehicle (may include pickup camper), one large tent or two small tents;

c. one pop-up camper with two vehicles (may include pickup camper), one large tent or two small tents;

d. one pickup camper with additional vehicle, one large tent or two small tents;

e. two vehicles and tent combinations not to exceed three tents.

5. The following camping combinations are applicable only to Grand Isle State Park:

a. one passenger vehicle and two tents (family unit only);

b. one passenger vehicle and one camping trailer;

c. one van-type camping vehicle and one tent;

d. one van-type camping vehicle and one camping trailer;

e. one pickup truck camper and one tent;

- f. one pickup truck camper and one camping trailer;
- g. one motorized camper (or bus) and one passenger vehicle.

Beach campsites cannot be reserved.

C. Cabins, Lodges, other Overnight Facilities

1. A written inventory of movable equipment and furnishings is posted in each overnight structure or will be furnished to the visitor. It is the visitor's responsibility to check the inventory upon occupancy. The visitor must report to the park manager any discrepancy between the actual inventory and the printed inventory. The visitor may be assessed the cost of items which, if not reported as missing or damaged upon occupancy, are missing or damaged when the structure is vacated. Failure to reimburse the Office of State Parks for any missing property or damage to property may result in denial of future use of park facilities.

2. Facility furnishings cannot be moved without the permission of the site manager.

3. Upon termination of any use permit, the facility must be delivered up in good repair and in the same condition in which it was found. Where applicable, all doors and windows will be closed, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of the facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 25:

Chapter 5. Procedures and Fees

§501. Operating Schedule

A. State Parks

1. All state parks that do not have a boat launch open at 7 a.m. and close at 9 p.m. year round. All state parks that have a boat launch capable of launching a motorized vessel and ones that are not designated for campers only, will open at 6 a.m. and close at 9 p.m. year round. A park attendant is on duty Fridays, Saturdays, and on days preceding holidays until 10 p.m. to register incoming campers and other overnight users only. Based upon user demand, and available staff and other resources, the hours of operation at each park site may be varied at the direction of the assistant secretary or his designee.

2. Pools and enclosed beach areas are usually operated from Memorial Day weekend through Labor Day weekend, subject to an operating schedule per individual park. All pools are closed on Mondays, except holidays.

B. State Historic Sites: Year-round schedule—Open 9 a.m.-5 p.m.; closed Christmas Day, New Year's Day, Thanksgiving Day.

C. State Preservation Areas: Year-round schedule—Open 9 a.m.-5 p.m. Closed Christmas Day, New Year's Day, Thanksgiving Day.

D. Temporary Operating Schedule: Some areas are not fully operational pending completion of programs or facilities. Also, because of budgetary or legislative mandates, operational schedules may change. Visitors should contact the site manager or the administrative office for information regarding sites with part-time operating hours and special group tour arrangements.

E. The assistant secretary or his designee may direct the closing of a park to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the park to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 25:

§503. Fees and Exemptions; Day-Use

A. - A.2 ...

a. St. Bernard SP swimming pool fee is \$2 per person-no entrance fee.

b. Bayou Segnette SP wave pool - in addition to the entrance fee and all other user fees: Adults (over 48") \$8 per day, Children (under 48") \$6 per day. The price includes one flotation device per person. Discount coupons available when purchased in quantity lots.

3. A self-service fee system may be used to collect user fees on areas normally served by an entrance control station. During these times all reservation guests or others requiring registration shall sign in at the office during the normal business hours or with a ranger placed in the entrance station at hours when the office is not operated.

B. State Historic Sites General Admission Fees

1. An admission fee of \$2 per adult is charged for all state historic sites (exception: Locust Grove and Los Adaes, which have no admission charge). There is no admission charge for children age 12 and under. Admission entitles visitors to all facilities and regular programs which may be offered at the historic site. Special programs and events may include special admission rates. The payment of the admission fee at one historic site entitles guests to enter all historic sites on the same day with no additional charge. The receipt from the first site must be presented for admission to subsequent sites.

2. Organized groups of 10 or more are requested to notify the park manager in advance of their arrival. There is no additional fee for SHS visitors arriving by bus.

C. ...

D. Boating

1. Rental boats are available in most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity.

2. The standard rate for rental boats with three life jackets and two paddles is \$10 per boat per day. Additional life jackets are available at a rental fee of \$1 each per day.

3. ...

4. At some sites rental boats, kayaks, canoes and other water vessels may be available through the park or through a concessionaire. Visitors should contact the site to check availability and rates.

E. Fishing Piers. A fishing pier extending into the Gulf of Mexico is located at Grand Isle East State Park. A fee is charged for day or night fishing on the pier in addition to the regular day-use or overnight-use fees. Fees are \$2 per person over 12 years of age and \$1 for children 12 years of age and younger.

F. Group Rental Shelters

1. Group rental shelters are available at most state parks and state historic sites. The rental rate varies, depending upon the size and location.

2. Exclusive use of a group shelter can only be made by a rental permit and payment of a rental fee. These group shelters can be reserved in advance with payment of the rental fee.

3. Reserved shelters will be posted, indicating the name of the party and date of use. When such shelters are not so posted or reserved, they are available to the park user on a first come, first served basis as any other non-reserved park shelter.

4. ...

5. The carrying capacity of a group rental shelter is based on its size, facilities and available parking, and may not be exceeded as determined by the site manager.

6.a. Type I Shelter. These shelters, usually located in the day-use area, accommodate a standard of 40 people. Reserve rental rate is \$40 per day.

b. Type II Shelter. These shelters, usually located in the day-use area, accommodate 60 people. Reserve rental rate is \$60 per day.

c. Type III Shelter. These shelters are usually separated from the day-use area, affording more group privacy than the other shelter types. They may accommodate 100 people. Reserve rental rate is \$100 per day.

G. Conference Rooms. Conference rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available at a rate of \$125 per day during normal park operating hours. Kitchen facilities may be used, if available.

H. Exemptions

1. Senior Citizens. Any citizen of the state of Louisiana who is identified as sixty-two years of age or older shall be exempt from paying the general admission charge to any state park in Louisiana. Any person accompanying a citizen of the state of Louisiana who is sixty-two years of age or older, as the driver of a single, private, noncommercial vehicle, or alternatively, the exempted persons spouse and children accompanying him or her where entry to the area is by any means other than private, noncommercial vehicle, shall be exempt from paying the general admission charge to any state park in Louisiana. (R.S. 56:1692)

2. ...

3. School Groups - Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any site.

4. ...

5. Non-Profit Community Home Based Organization - Any child age 18 or under who is retained in the legal custody of the state through a bona fide contractual service agreement with a public, non-profit community home based organization or "provider" shall be exempt from paying the general day-use entrance fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or "provider".

a. Certification of the eligible organization or "provider" must be made in writing to the Office of State Parks, and the agency shall in turn recognize such certification prior to eligibility for this exemption.

b. This exemption shall not be applicable to day-use functions at any state park overnight facility such as group camps, cabins, campgrounds, etc.

I. Annual Day-Use Permits

1. Annual Day-Use Permits are available at a cost of \$30 per year. This permit, in the form of a wallet I.D. card, allows the holder individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal day-use fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in which the permit holder is a passenger or driver are also admitted without charge.

a. The wallet permit may be exchanged for a vehicle decal which shall be permanently affixed to a vehicle, if this is a more convenient permit arrangement.

b. The Annual Day-Use Permits are valid for a period of one year beginning January 1 and ending December 31 annually. Permits may be obtained at any site.

2. The annual day-use permits are valid for exemption of the general admission day-use charge only.

J. From time to time, as deemed appropriate by the assistant secretary, special programs, occupancy regulations, or discounts on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 25:

§504. Fees and Exemptions — Overnight Use

A. Camping Fee

1. An improved campsite rents for \$12 per night. An unimproved campsite rents for \$10 per night. For information regarding campsite reservation fees, see Reservation Policy, §505.

2. Each campsite is restricted to use by one camping unit. Improved sites are equipped with picnic table, grill, electricity and water hookups.

3. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are charge of \$1 per person, per night, except the tepee area at Fontainebleau State Park where the charge is \$30 per group per night. Capacity level will be set by the site manager.

B. Rally Camping Areas are those designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group use only.

1. Fees

a. A fee of \$50 per night is assessed to the group for the exclusive use of the area, and each individual camper rig is also charged the improved campsite rate.

b. The day-use fee for a rally campground is \$50 per day for the group, and in addition the standard day-use entrance fee is charged per vehicle.

3. Carrying Capacity - A maximum carrying capacity for rally sites is established by individual parks, and

information concerning these capacities is available through the individual park offices.

C. Golden Age/Golden Access Permit. Any citizen of the United States who possesses a Golden Age and/or Golden Access Passport issued by an agency of the United States, pursuant to 16 U.S.C. Section 460, and any person accompanying the holder of the passport in a camper rig as defined in Chapter 3, Subsection 311 H, of the rules and regulations of the Office of State Parks will be entitled to a 50 percent discount on any overnight campsite rentals. Proof of identification will be required.

D. Backpacking

1. Backpacking is available only at Chicot State Park at the present time. A permit is required for all overnight backpacking use and may be obtained at the park entrance station.

2. Each person will be assessed a fee of \$1 per night. A copy of the backpacking regulations can be obtained at the park entrance station.

3. Backcountry camping or backpacking is defined as camping in undeveloped areas of the park where there are no designated campsites and no facilities provided. These areas are reached by backpacking or by non-motorized boats.

E. Canoe Camping

1. Canoe camping at primitive campsites is available at Lake Fausse Pointe State Park and Lake Claiborne State Park. The unimproved campsite rental fee of \$10 is charged for use of these areas.

F. Cabins and Lodges

1. Cabins

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Deluxe	\$65	6	8
Modular	\$60	6	8
Standard	\$50	4	6
Rustic	\$45	4	6

2. Park Lodges - These are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups.

Classification	Overnight Rate	Bedding Accommodations	Maximum Capacity
Large	\$90	12	14
Small	\$90	7	9

G. Group Camps

1. Group camps are available at certain parks for organized group use. The capacity, type of facility, and rates are as follows:

Classification	Overnight Rate	Day Rate	Maximum Capacity
Class III	\$300	\$200	100+
Class II	\$125	\$75	50+
Class I	\$75	\$50	30+

1. Group camps may be reserved for day use only at a basic rate. In addition, the normal day-use entrance fee will be assessed each vehicle entering the group camp area.

2. Beds, kitchen and necessary cooking ware are furnished. User must furnish his own tableware (silver, dishes, glasses, etc.), bed linens, pillows, towels, and toilet necessities.

H. Special Research Dormitory Facilities

1. Purpose. The primary purpose of the research dormitory is to provide living space and sleeping accommodations for professional researchers and students who are actively conducting on-site research. The dormitory can be used on a first come, first served basis by other individuals who meet the requirements as set forth in this policy statement.

2. Eligible Users. The dormitory is available to college students, professional archaeologists and other scientists and professionals who are studying the site and/or actively conducting research which relates to or directly involves the site or nearby sites of significance.

Requests for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed to determine merit and appropriateness.

3. Application Process. Requests for use of the dormitory must be made by letter addressed to the site manager. The site manager and the assistant secretary will review the request and respond in writing to the applicant.

4. Facility Use Agreement

a. All parties granted permission to use the dormitory must execute a Facility Use Agreement.

b. The user must execute the agreement and return it to the site manager before occupying the dormitory.

5. Research Dormitory Fees. All user groups, unless otherwise authorized by the assistant secretary, will be required to pay a \$100 per night fee for overnight use. The rental fee must be received within 10 days after the user receives written approval to use the dormitory.

6. Research Dormitory Occupancy Requirements

a. Registration with the site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

b. Keys to the dormitory can be obtained from the site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

c. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

d. Research Dormitory Check-out time is 2 p.m.

7. Special Conditions. All programs and activities conducted by groups or individuals using the dormitory must be approved in writing by the site manager.

8. The site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 25:

§505. Reservation Policy

A. General Provisions

1. Reservations may be made for all facilities at state parks by calling the State Parks Reservation Call Center. Overnight and day-use facilities, including cabins, lodges, group camps, camping sites, rally shelters, conference centers and shelters may be reserved 11 months in advance. For example, if a park user wants to use a facility on July 2, he may make the reservation no earlier than August 2, or the first business day after August 2, of the prior year.

2. The Call Center will operate 8 a.m. to 4:30 p.m., Monday through Friday. The Call Center will close for state holidays. Based upon demand, the Center's hours may be extended by the assistant secretary or his designee. Reservations may also be made on-line.

3. Reservations are accepted only from person 18 years of age or older. All persons under 18 years of age must be accompanied by adults when using reserved facilities.

4. Payment in full must be received within 10 days of the date the reservation is made otherwise the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. If the reservation is made within 10 days or less of the usage date, payment will be made by credit card only.

5. A cancellation of a reservation initiated by park users is subject to a surcharge. The cancellation fee is a minimum of \$10. If the reservation is canceled within fourteen days of the first day of intended use, the cancellation fee is the cost of one night's stay or \$10, whichever is more.

6. In the event reservations must be canceled for maintenance or emergency reasons by park staff, the rental fee will be refunded in full. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

7. Reservations may be transferred from one date to another or one site to another based on availability for a \$10 transfer fee.

8. For cabins, lodges, group camps, rally shelters and camping a two day minimum reservation is required for weekends. The minimum may be met by reserving the facility on Friday and Saturday nights, on Saturday and Sunday nights or for all three nights. If facilities are not reserved in advance, they may be rented on weekends for one night to walk-up users using the facilities that day. Exceptions may be granted by the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1051 (December 1990), LR 25:

§506. Refunds

A. Refunds will not be issued to visitors evicted for enforcement or disciplinary reasons.

B. Refunds may be made at the park upon approval of the site manager or his designee for those fees paid at the park for the following reasons:

1. in emergency situations where the park must be closed due to natural or man-made emergencies (water shortage, fire, weather, and equipment failure);

2. when a user chooses to leave a park before use of any facilities;

3. when the user chooses to leave a park before utilizing facilities for the total reservation period, the unused reservation period amount will be refunded minus the cancellation fee detailed in §505.1. An exception would include weekends which require a minimum reservation period.

C. All park-issued refunds will require that the visitor present a valid paid receipt for the amount of the requested refund.

D. All advance reservation refunds must be issued through the administrative office in accordance with §505.1.

E. Visitors are encouraged to request a temporary visitor pass for the purpose of inspecting the park facilities prior to an anticipated visit.

F. Refunds of day use fees are not granted when a visitor, by his own choosing, leaves the park as a result of inclement weather.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 25:

§507. Special Uses and Restrictions

A. - B. ...

C. Use Restrictions

1. A State Historic Site is an area which possesses a historical, cultural, or memorial significance when judged on a statewide basis. Activities and uses of historic sites are limited to those appropriate to the significance of each site as defined by the master plan and interpretive prospectus of the unit.

2. It is necessary that development on a state historic site be limited to that which is essential for visitor accommodation and enjoyment of the area's theme or feature. Day-use facilities will be limited to activities that do not conflict with the historical theme and confined to section(s) set aside for such purposes. Historic zones will be established to protect the resource and insure most conducive use of each state historic site. Space outside of the historic zone(s) and maintenance area(s) may be set aside for recreational use at the discretion of the site manager.

3. The atmosphere created on the historic site is as important as the artifactual evidence. In order that the greater interest and primary function of the area be served, it is necessary to restrict certain incompatible activities from the sites. Any sport or recreational activity that does not contribute to a greater understanding of the theme of the area is prohibited within all historical zones of any state historic site. Recreation zones appropriate for such use may be designated by the site manager if space permits. No organized league activities will be allowed on the grounds of any state historic site.

4. It has also been determined that the use of state historic sites for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored, commercial activities and events is not deemed in the best interest of the state historic sites. Such use fails to achieve the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of

the visitor. At Rebel State Historic Site, because of the theme of the area, musical events sponsored by promoters will be permitted with the approval of the assistant secretary or his designee.

5. Organizations offering support to historic sites, parks, and preservation areas either one in particular or on a general basis, through such things as historical societies, friends groups or service groups, may be permitted special functions at a site if a written request is made and written permission is obtained from the assistant secretary. Such functions may not be specifically for the benefit of an individual, but must be held to benefit the site, either directly or indirectly, through greater public awareness in of the site or history of the area, or to assist the agency in the fulfillment of its mission and purposes.

D. Passenger Bus Restrictions

1. In an effort to facilitate control of the day-use carrying capacity for state parks (excluding state historic sites), no buses nor occupants thereof shall be admitted to state parks except by special permit for any day-use activities on weekends or holidays during the period Memorial Day weekend through Labor Day.

2. Special Bus Use Permits - Any access to state parks by bus transportation on weekends or holidays during the period between Memorial Day and Labor Day will require a special bus use permit. The application for the permit must be submitted to the site manager at least three days prior to the proposed use date along with the group's proof of \$1,000,000 liability insurance naming the Department of Culture, Recreation and Tourism and the Office of State parks as additional insureds, and proof of \$500,000 automobile or bus liability insurance. Children traveling to state parks must be chaperoned by adults. The permit, if approved, does not cover other special day-use charges (rental pavilions, etc.).

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 25:

Dwight Landreneau
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rules and Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated net costs or savings to state or local governmental units in the implementation of these rules. Many of these rules have been proposed to accommodate the new Centralized Reservation System (CRS), approved and funded in FY 99-00. Marginal additional costs associated with extended hours of operation should be offset by slightly higher revenues from increased use.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant net effect on revenue collections of state or local governmental units is anticipated. Any loss of revenue resulting from promotional discounts or exemptions should be

made up in increased revenue due to increased visitation and facility use. Examples of such discounts and exemptions include the waiver of bus fees at state historic sites in a day. There may be negligible, but indeterminable, effects on revenue from the 75¢ increase in backcountry camping fees, the switch from an age-based to a height-based child rate at the wave pool, the simplification of the group camp rates, and the imposition of cancellation and transfer fees.

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 are anticipated. There may be a benefit to the public in terms of convenience afforded to customers making reservations through the more customer-friendly CRS, which reservations may be made through one toll-free number or on-line. School groups may be encouraged to take more trips during the summer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition and employment is anticipated.

Dwight Landreneau
Assistant Secretary
9910#044

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**College Campus Credit Card Solicitation
(LAC 10:XVII.701)**

Under the authority of the Louisiana Administrative Procedure Act, LSA-R.S. 49:950 et seq., and in accordance with the Campus Credit Card Solicitation Act, LSA-R.S. 9:3578.1 et seq., and specifically LSA-R.S. 9:3578.3, the Acting Commissioner of Financial Institutions hereby gives notice of her intent to promulgate the following rule to implement the provisions of Act 1110 of 1999, to provide for the form to be used for the registration, by a credit card issuer, of its intent to engage in the solicitation of students on college campuses.

Title 10

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

Part XVII. Miscellaneous Provisions

Chapter 7. College Campus Credit Card Solicitation

§701. Form for Registration of Intent to Solicit Students

A. Purpose. This Chapter provides the form to be used by a credit card issuer for the registration of its intent to engage in the solicitation of students on college campuses.

B. Definitions. The definitions for the terms utilized in this Chapter are the same as those provided for in the definitions section of the College Campus Credit Card Solicitation Act, LSA-R.S. 9:3578.1, specifically LSA-R.S. 9:3578.2, and as follows.

Appropriate Official—the president, chancellor, or chief management official of the institution of post-secondary education.

C. Form of Registration. The form of registration shall be a letter directed to the appropriate official of the

institution of post-secondary education at which the credit card issuer intends to engage in the solicitation of students on college campuses. The letter shall contain, at a minimum, the name and principal place of business of the credit card issuer, along with the name, address, and telephone number of the contact person who is responsible for the administration of its credit card solicitation program. The credit card issuer shall copy the Commissioner with its letter of intent to solicit students.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 9:3578.3

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 25:

All written comments regarding this proposed rule must be submitted no later than to Gary L. Newport, Chief Attorney, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, Louisiana, 70804-9095 or by hand-delivery before 5:00 p.m., to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, Louisiana 70809.

Doris B. Gunn
Acting Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: College Campus Credit Card Solicitation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no additional cost associated with the implementation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule will cost credit card issuers an insignificant amount to register with the appropriate official at institutions of post-secondary education prior to soliciting students.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Doris B. Gunn
Acting Commissioner
9910#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Real Estate (LAC 46:LXVII.Chapters 1-67)

Under the authority of the Louisiana Real Estate License Law, 37:1435 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Real Estate Commission has initiated procedures to repeal LAC 46:LXVII.Subpart 1.Real Estate, Chapters 1 through 67, in its entirety, and to promulgate rules and regulations which

will define and interpret the existing rules and regulations to a better extent. The proposed rules have no known impact on family formation, stability, or autonomy.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 1. Authority

§101. Adoption

A. The rules and regulations of the Louisiana Real Estate Commission contained herein have been adopted pursuant to and in compliance with R.S. 37:1431 et seq., and any violation of these rules or regulations, or of any real estate licensing law, shall be sufficient cause for any disciplinary action permitted by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 3. Applications for Initial Licenses

§301. Application

A. Every application must be fully completed, notarized and accompanied by the prescribed fees.

B. Every initial applicant for a salesperson license must provide an affidavit signed by the sponsoring broker at the time the application is submitted; or

1. The salesperson applicant may provide the affidavit signed by the sponsoring broker prior to issuance of the license.

2. Upon passing the licensing examination the applicant must, within ninety days, submit to the Commission a statement of sponsorship signed by a licensed real estate broker acknowledging that the broker will serve as the applicant's sponsoring broker. The Commission, at its discretion, may extend the ninety day period upon a showing that factors beyond the control of the applicant warrants such an extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§303. Broker and Salesperson License Applications

A. Every applicant for licensing as an individual real estate broker or salesperson shall include with their application the following:

1. proof of completion of the required real estate educational hours from a real estate school holding a certificate of authority from the Commission or certificates or university transcripts indicating completion of courses which have been approved by the Commission. Effective January 1, 2000, only those preclicensing educational courses completed during the five year period immediately preceding the date of initial application for a real estate salesperson or broker license will be granted full credit by the Commission. Real estate preclicensing course work completed by an applicant prior to the five year period immediately preceding the date of initial application for a salesperson or broker license may be considered by the Commission for partial credit toward the initial preclicensing requirement. Any partial credit granted will be based on the date(s) of course completion and the applicability of course content to current preclicensing requirements. The

Commission may accept approved real estate course work obtained in other jurisdictions toward fulfillment of preclicensing salesperson and/or broker educational hours. Real estate course work obtained from nationally recognized institutes may also apply toward fulfillment of broker preclicensing hours. The applicant must apply for and receive approval of such course work from the Commission prior to submitting the initial licensing application. Every applicant for a Louisiana real estate license must complete an approved course of study consisting of at least thirty classroom hours of course work. Such course work shall include study of the Louisiana Real Estate License Law, Commission Rules and Regulations and Louisiana Civil Law relating to real estate and any other courses the Commission deems necessary and appropriate;

2. license verification history from each jurisdiction where the applicant has held or currently holds a real estate license as a broker or salesperson;

3. verification of passing an equivalent real estate licensing examination within the five year period immediately preceding the date of application if the applicant is requesting a waiver of the national portion of the licensing examination.

B. Every application for a corporation, partnership or limited liability broker's license shall be submitted by the qualifying broker designated by the corporation, partnership or limited liability company on a fully completed, notarized application accompanied by the prescribed fees and the following documents:

1. copy of the resolution or other document executed by a principal of the corporation, partnership or limited liability company designating the individual real estate broker as its qualifying broker;

2. notarized Affidavit of the Qualifying Broker;

3. copy of the Registration Certificate issued by the Secretary of State;

4. copy of any registration issued by the Secretary of State for any trade name or trade mark to be used by the corporation, partnership or limited liability company in its real estate business activities as a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 5. Examinations

§501. Examination Procedure

A. Each applicant for a real estate license examination must submit an application to the Commission for a determination of eligibility to take the applicable licensing examination. The responsibility for timely submission of initial licensing applications rests solely with each individual applicant.

B. Upon a determination by the Commission that the applicant is eligible to take the licensing examination, an examination authorization will be issued to the applicant. The authorization will be valid for one examination which must be completed within a period of ninety days of issuance. If the applicant does not take the examination within the ninety day period, the applicant must apply to the Commission and receive a new examination authorization prior to scheduling an appointment to take the licensing examination.

C. Upon receipt of the examination authorization from the Commission, the applicant is solely responsible for contacting the Commission's designated national testing service to arrange for an appointment to take the examination.

D. Each examination applicant must comply with all examination procedures established by the Commission and its designated national testing service. These procedures will be contained in a licensing information bulletin provided to each applicant with the initial licensing application packet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§503. Disqualification of Applicants

A. Any action by an applicant to use, or attempt to use, to obtain, or attempt to obtain, to supply to others, or attempt to supply to others, specific information on copyrighted test questions appearing on any qualifying examination administered under the jurisdiction of the Commission shall be grounds for denial of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§505. Prohibited Activities

A. Licensees, certificate holders, registrants, and persons employed by or associated with a licensee, certificate holder, registrant, school owner or school director, shall not obtain or attempt to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service under current or expired contract with the Commission for administration of its licensing and certification examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§507. Failure of Examination

A. Any applicant who takes and fails to pass the initial examination may apply to retake the examination by submitting to the Commission a copy of the fail notice and a new examination processing fee within ninety days of the date of failure. Failure to reapply for an examination within the ninety day period will result in closure of the applicant's file and forfeiture of all fees. Thereafter, the applicant will be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination. The Commission, at its discretion, may extend the ninety day retake period upon a showing that factors beyond the control of the applicant warrant such an extension.

B. The failing applicant may continue to retake the examination for a period of one year from the initial examination date, provided the applicant follows the retake procedures as specified in Section 507 of this Chapter. Failure of the applicant to achieve a passing score on both the national and state portions of the licensing examination within the one year period will result in the loss of examination eligibility. The applicant will not be eligible to again apply for the licensing examination until six months after the date of the loss of examination eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§509. Partial Failure of Examination

A. Any applicant who takes an examination and passes only the national or state portion of the examination shall be required to retake only the failed portion. The applicant's passing score on the passed portion of the examination will be valid for a period of one year from the date of passage. The applicant may apply to retake the failed portion by submitting to the Commission a copy of the fail notice and a new examination processing fee within ninety days from the date of failure. Failure to reapply for an examination within the ninety day period will result in closure of the applicant's file and forfeiture of all fees. Thereafter, the applicant will be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination. The Commission, at its discretion, may extend the ninety day retake period upon a showing that factors beyond the control of the applicant warrant such an extension.

B. Failure of the applicant to achieve a passing result on both portions of the examination within a one year period of the initial examination date will result in the loss of examination eligibility. The applicant will not be eligible to again apply for the licensing examination until six months after the date of the loss of examination eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§511. Examination Requirement for Out-of-State Applicants

A. Any applicant for a Louisiana real estate license who was previously or is currently licensed in another jurisdiction as a real estate salesperson or broker shall be required to take and pass only the state portion of the examination, upon a showing by the applicant that the applicant has passed, within five years of applying for licensing in Louisiana, an equivalent examination in another jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 7. Fees

§701. Refund of Fees

A. Except as otherwise provided in these rules and regulations all fees submitted to the Commission are nonrefundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§703. Duration of Fees for Licenses, Certificates and Registrations

A. Fees shall cover a period of one calendar year and shall not be prorated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§705. Returned Checks

A. Payment of any fee with a check which is returned by a financial institution wherein the reason for not paying the check is not a fault of the financial institution shall be grounds for cancellation of the transaction for which the fee was submitted and/or the suspension or revocation of a license, registration or certificate.

B. Persons issuing checks to the Commission which are returned by financial institutions for any reason will be notified of the return of the check by certified mail to the address registered by that person with the Commission. Within 10 days from the mailing of the notification, the person issuing the check will remit a certified check, cashier's check or money order payable to the Louisiana Real Estate Commission in the amount of the returned check plus a \$25.00 processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 9. Renewal Applications

§901. Timely Renewal of Licenses, Registrations and Certificates

A. The responsibility for the timely submission of renewal applications and the payment of the required fees rests solely with each individual licensee, registrant and certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§903. Non-Renewal of Real Estate Licenses

A. No real estate license shall be issued to any associate broker or salesperson until the individual real estate broker license of their sponsoring broker, or, if sponsored by a designated qualifying broker, the corporate, partnership, or limited liability company broker's license of their sponsoring designated qualifying broker has been renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§905. Renewal Application

A. A salesperson or associate broker renewal application must be signed by a sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§907. Continuing Education Required for Renewal

A. The active license of an individual real estate broker or salesperson shall not be renewed unless the broker or salesperson has completed eight hours of approved continuing education course work during the immediately preceding license period. Course work submitted by delinquent renewal applicants may either be obtained in the preceding license period or prior to submission of the delinquent renewal application to the Commission.

B. Beginning January 1, 2001, except for purposes of compliance with the Americans with Disabilities Act (ADA) or other similar extenuating circumstances determined by the Commission, correspondence study courses shall not be

accepted toward fulfillment of the four hours in mandatory continuing education subjects specified by the Commission unless said courses are certified by the Association of Real Estate License Law Officials (ARELLO) for distance learning purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 11. Delinquent Renewal

§1101. Application for Delinquent Renewal

A. Applications for delinquent renewal of broker's or salesperson's licenses and applications for delinquent renewal of timeshare sales registrations shall be accepted by the Commission only during the six-month period immediately following the last December 31 date on which the applicant held a valid license or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1103. Loss of Renewal Eligibility

A. Licensees and timeshare sales registrants who fail to renew a real estate license or timeshare sales registration during the six-month delinquent period following the expiration of a license or registration shall apply as and meet all requirements of initial applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 13. Broker Affiliation

§1301. Associate Broker

A. A licensed individual real estate broker may become exclusively affiliated as an associate broker with a sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1303. Notification by Broker Applicants

A. Any applicant for licensing as an individual real estate broker who elects, if and when licensed, to become exclusively affiliated with a sponsoring broker shall notify the Commission in writing of the name of the sponsoring broker prior to the issuance of the license. When the applicant is qualified for licensing as a broker, the Commission shall inscribe the name of the sponsoring broker on the license and issue the license to the sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1305. Notification by Individual Real Estate Broker

A. Any individual real estate broker who elects to become exclusively affiliated with a sponsoring broker shall notify the Commission in writing prior to beginning such a relationship and provide the name of the sponsoring broker and the effective date of the relationship. The notification shall be accompanied by the broker's license and the transfer fee. The Commission shall inscribe the name of the sponsoring broker on the license and issue the license to the sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1307. Escrow Accounts Prohibited

A. Any broker who is exclusively affiliated with a sponsoring broker is prohibited from maintaining a sales escrow checking account, rental trust escrow checking account or security deposit trust checking account except as authorized in Chapter 27. All funds received by the associate broker in real estate transactions of any nature will be placed in the custody of the sponsoring broker.

B. Associate brokers who were licensed as individual real estate brokers and who maintained sales escrow checking accounts, rental trust escrow checking accounts or security deposit trust checking accounts prior to affiliating with a sponsoring broker may continue to maintain those accounts for the limited and specific purpose of completing pending transactions, as authorized by Chapter 27.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 15. Transfers and Terminations

§1501. Transfers

A. The transfer of the real estate license of a salesperson or an associate broker in the active status, or the termination of sponsorship of a salesperson or associate broker, will be accomplished by completing a transfer form prescribed by the Commission and paying any required fees.

B. The sponsoring broker shall return the license of the salesperson or associate broker to the Commission within five days of the date of execution of the transfer form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1503. Exemption from Transfer Fee

A. No transfer fee or delinquent renewal fee shall be charged to an associate broker or salesperson who applies for transfer or change of status within sixty days of any of the following circumstances:

1. when the sponsoring broker has died;
2. when the sponsoring broker has failed to renew his license;
3. when the sponsoring broker's license has been suspended or revoked;
4. when the sponsoring broker's license is transferred to the inactive status;
5. when the sponsoring broker elects to discontinue the sponsorship of a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1505. Transfers on Acquisition or Purchase of Licensed Agencies

A. When a licensed agency is purchased or otherwise acquired by another licensed agency, the sponsoring or qualifying broker of the acquiring agency will notify the Commission in writing not later than the second working day following the date of acquisition.

B. The notification to the Commission will specify the date of acquisition and request the transfer of all licensees sponsored by the agency being acquired to the acquiring agency and shall certify continuous errors and omissions insurance coverage of all licensees being transferred to the acquiring agency. If the transfer of licensees necessitates the payment of fees to the Commission for coverage under the Commission group policy, a listing of all licensees to be covered under the policy and a check in payment of the required fees will accompany the notification

C. On receipt of the written notification the licenses of all associate brokers and salespersons will be transferred by the Commission to the acquiring agency under the sponsorship of the sponsoring or qualifying broker of the acquiring agency, with the effective date of transfer being the date of acquisition as specified in the written notice of acquisition.

D. The sponsoring or qualifying broker of the acquiring agency shall, within two working days following the date of acquisition, give written notice to all licensees transferred to the acquiring agency in connection with the acquisition.

E. Associate brokers or salespersons who do not elect to remain with the acquiring agency shall within five days after notification advise the sponsoring or qualifying broker of the acquiring agency and request the return of their licenses to the Commission. Transfers to a new sponsoring broker will be accomplished in accordance with the provisions of this Chapter.

F. The transfer of the licenses of associate brokers or salespersons who will be terminated by the sponsoring or qualifying broker of the acquiring agency will be accomplished in accordance with the provisions of this Chapter.

G. Not later than fifteen days following the date of acquisition, the sponsoring or qualifying broker of the acquiring agency will advise the Commission in writing of the status of all licensees formerly sponsored by the acquired agency.

1. The notification will include a listing by category which identifies:

- a. each associate broker or salesperson who requested the return of their license to the Commission;
- b. each associate broker or salesperson who is being terminated by the acquiring agency; and
- c. each associate broker or salesperson who has elected to remain with the acquiring agency.

2. The notification will include:

- a. the licenses of each associate broker or salesperson who will not remain with the acquiring agency;
- b. copies of the written notification to and/or from each associate broker and salesperson as required by this Chapter;
- c. a check from the acquiring agency in payment of the appropriate transfer fee for each licensee who was sponsored by the agency being acquired and who will remain with the acquiring agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1507. Change of Licensing Status

A. Individual real estate brokers and salespersons may transfer from active to inactive status or from inactive to active status by completing a transfer form prescribed by the Commission, satisfying the requirements set forth in the Louisiana Real Estate License Law and Rules and Regulations of the Commission, and paying any required fees.

B. Corporate, partnership and limited liability company real estate broker's licenses shall remain in the active license status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 17. Termination Responsibilities

§1701. Relinquishment of Business Related Property

A. Upon termination of a licensee's relationship with a sponsoring broker, every salesperson or associate broker shall immediately turn over to the sponsoring broker all business related property obtained from or provided by the sponsoring broker or agency, to include keys to any and all properties listed with the broker whether such keys were provided by the broker or obtained by the licensee during the business relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1703. Relinquishment of Business Related Data

A. Upon termination of a business relationship with a sponsoring broker, every salesperson or associate broker shall immediately turn over to the sponsoring broker all listing information, contracts, agency forms, and other business or agency related information, data, or documents obtained from or provided by the sponsoring broker or agency for use by the licensee during the business relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1705. Personal Obligations

A. The responsibility for settlement of matters pertaining to financial obligations resulting from the business relationship, including the payment of commissions and dues to professional organizations, rests solely with the parties to the relationship. Any disputes resulting therefrom should be properly addressed through civil litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1707. Report of Alleged Failure

A. Any sponsoring broker who alleges failure to comply with §1701 or §1703 of this Chapter by a formerly sponsored salesperson or associate broker shall submit a signed and documented report of such failure at the time the license is returned to the Commission, and provide a copy of the report to the former licensee. The report shall specifically list and identify the business related property or

data not relinquished by the formerly sponsored licensee and the signed report shall constitute a written complaint filed with the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 19. Names on Licenses, Registrations, and Certificates; Trade Names; Symbols; and Trademarks

§1901. Names on Licenses, Registrations and Certificates

A. All licenses, registrations and certificates issued by the Louisiana Real Estate Commission will be issued in the name of the legal entity of the applicant.

1. Licenses, registrations and certificates issued to individual real estate brokers, real estate salespersons, timeshare registrants, and real estate school instructors will be issued in the name of the individual person.

2. Licenses, registrations and certificates issued to any corporation, partnership or limited liability company for any purpose will be issued in the identical name of the corporation, partnership or limited liability company as registered with the Secretary of State. No license, registration or certificate will be issued to any corporation, partnership, or limited liability company not registered with the Secretary of State.

3. The name of any broker or salesperson whose real estate license has been revoked by the Commission, with the revocation becoming final and effective on or after February 1, 1995, which in any way represents that the former broker or salesperson is licensed by the Commission to conduct real estate activities requiring licensing in Louisiana, shall not be utilized on any license issued by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1903. Trade Names

A. Licenses, registrations and certificates issued by the Commission will not indicate a trade name of the licensee, registrant or certificate holder unless the trade name is registered with the Secretary of State and a copy of the registration is on file at the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§1905. Symbols and Trademarks

A. Licensees, registrants and certificate holders are prohibited from using any symbol or trademark in connection with any license, registration or certificate issued by the Commission without first registering the symbol or trademark with the Secretary of State and placing a copy of the registration on file at the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 21. Concurrent Licensing

§2101. Broker and Salesperson Licenses

A. A broker may conduct real estate activity as an individual real estate broker and concurrently be designated

as the qualifying broker of one or more corporations, limited liability companies and/or partnerships.

B. Associate brokers and salespersons shall not be sponsored by more than one sponsoring broker.

C. Licenses as brokers or salespersons, or a registration as a timeshare interest salesperson shall not be issued to or held concurrently by any person. Brokers may not concurrently conduct real estate activities as an individual real estate broker and as an associate broker exclusively affiliated with another real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 23. Branch Offices

§2301. Branch Office

A. An office located at other than the registered address of a sponsoring or qualifying broker which has been established by the broker or a licensee sponsored by the broker for conducting any real estate activity requiring licensing as a broker or salesperson and which in any way advertises the name of the broker or broker's company or the telephone number of the licensed broker shall be considered to be a branch office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 25. Advertising

§2501. Advertisements

A. Any advertisement involving the sale, lease or management of real estate by any licensee shall include the name and telephone number of the licensed real estate broker, and may include the name and telephone number of a salesperson or associate broker sponsored by the broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2503. Owner Authorization

A. No broker or licensee sponsored by said broker shall in any way advertise property belonging to other persons as being for sale or rent or place a sign on any such property offering the property for sale or rent without first obtaining the written authorization to do so by all owners of the property or their authorized attorney in fact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2505. Accuracy in Advertising

A. All advertising shall be an accurate representation of the property advertised. No broker or licensee sponsored by said broker shall use advertising which is misleading or inaccurate or in any way misrepresents any property, terms, value, policies, or services of the business conducted. The advertising shall not include any name or trade name of any franchiser or real estate organization or association of which the licensee is not a member or franchisee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2507. Advertisements of Residential Property

A. All printed advertisements for the sale or lease of residential real estate shall indicate the month and year the advertisement is printed, published, or distributed. Advertisements printed or published in newspapers, real estate trade publications and commercial magazines and brochures bearing an issue or publication date will be considered in compliance with this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2509. Advertisements by Franchise Organizations

A. Any licensed broker or salesperson affiliated with a franchise organization must disclose to the public that the real estate brokerage firm is independently owned and operated in all advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2511. Agent Owner-Licensed Agent

A. A licensed broker or salesperson who offers property in which he or she owns any interest as being for sale or rent shall state in any advertising, and on any sign placed on the property, that he or she is a licensed real estate agent.

B. Any licensed broker or salesperson who advertises, or offers to purchase or rent property for his or her own full or partial interest shall state in any advertisement that he or she is a licensed real estate agent.

C. Including the term "licensed real estate agent" in any advertisement or on any sign shall be sufficient to satisfy this requirement.

D. This Section is not applicable to the sale, rental, or acquisition of property by licensees under a contractual agreement with a licensed Louisiana real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2513. Appraisals

A. No licensee shall offer or advertise any appraisal service to the public in any manner which would create the impression of the licensee being a state certified real estate appraiser unless the licensee has been certified as such in accordance with R.S. 37:3406. Licensees who have not been certified as state certified real estate appraisers shall not describe or refer to any appraisal or other evaluation of real estate located in this state by the term "state certified."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2515. Internet Advertising

A. A real estate broker advertising or marketing on a site on the Internet must include the following data on each page of the site on which the advertisement appears:

1. the broker's name as registered with the Commission;
2. the city, state and country in which the broker's main office is located;
3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

B. A real estate broker using any Internet electronic communication for advertising or marketing, including but not limited to, e-mail, e-mail discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:

1. the broker's name as registered with the Commission;
2. the city, state and country in which the broker's main office is located;
3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

C. An associate broker or salesperson advertising or marketing on a site on the Internet must include the following data on each page of the site on which the licensee's advertisement or information appears:

1. the associate broker's or salesperson's name;
2. the name of the licensee's sponsoring broker as the name is registered with the Commission;
3. the city, state and country in which the sponsoring broker's main office is located;
4. the regulatory jurisdiction(s) in which the associate broker or salesperson holds a real estate license.

D. An associate broker or salesperson using any Internet electronic communication for advertising or marketing, including but not limited to e-mail, e-mail discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:

1. the associate broker's or salesperson's name;
2. the name of the licensee's sponsoring broker as the name is registered with the Commission;
3. the city, state and country in which the sponsoring broker's main office is located;
4. the regulatory jurisdiction(s) in which the associate broker or salesperson holds a real estate license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 27. Escrow and Trust Account

§2701. Sales Escrow Checking Account

A. Each resident broker who accepts any monies on behalf of a client in connection with the sale of real estate shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this chapter, all monies received by a broker in connection with the sale of real estate shall be deposited in this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2703. Rental Trust Checking Accounts

A. Each resident broker engaged in the collection of rental payments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all

checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all monies collected as rental payments from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2705. Security Deposit Trust Checking Account

A. Each resident broker engaged in the collection of rental security or damage deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all monies collected as rental security deposits from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2707. Account Affidavit

A. When requested to do so by Commission personnel, a broker shall execute and submit to the Commission an affidavit attesting to the existence, location and account number of a sales escrow checking account, rental trust checking account, or security deposit trust checking account, and authorizing and empowering the Commission or its representatives to examine, inspect, and/or copy the records of the account. All such affidavits shall be submitted to and received by the Commission within five days following such a request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2709. Non-Resident Brokers

A. Each non-resident broker shall open and maintain sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts as specified for resident brokers. The accounts may be opened and maintained at a financial institution in the state of Louisiana or in a financial institution in the state in which they reside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2711. Branch Office Accounts

A. A broker may open additional sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts to accommodate business transacted out of the branch offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2713. Signatory Rights on Checking Accounts

A. An individual real estate broker who maintains a sales escrow checking account, a rental trust checking account or a security trust checking account shall be an authorized signatory on each account maintained and the individual real estate broker shall be responsible for the proper maintenance and disbursal of the funds in the accounts. Granting authority to sponsored licenses and/or employees of the broker to sign checks on the accounts does not relieve the individual real estate broker of this responsibility.

B. The qualifying broker of a licensed corporation, partnership or limited liability company shall be an authorized signatory on sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts maintained by the licensed entity and the qualifying broker shall be responsible for the proper maintenance and disbursal of the funds in the accounts. Granting authority to sponsored licensees, principals and/or employees of the licensed entity does not relieve the qualifying broker of this responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2715. Additional Accounts

A. Where the interest of the principal parties to a particular transaction or series of transactions would be served thereby, and with the prior written consent of the principal parties, a broker may open an additional sales escrow checking account, rental trust checking account or security deposit trust checking account in any financial institution in the state of Louisiana or the state in which a non-resident broker resides and deposit therein all monies received in trust on behalf of those parties pursuant to that particular transaction or series of transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2717. Non-Interest Bearing Checking Accounts

A. Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2719. Personal Funds in Escrow and Trust Checking Accounts

A. A sum not to exceed \$2500.00 may be kept in each sales escrow checking account, rental trust checking account, and security deposit trust checking account, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker may, in connection with property management activities, keep funds in excess of \$2500.00 in a rental trust checking account for the temporary, limited and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2721. Withdrawal

A. No monies received and deposited into a sales escrow checking account, rental trust checking account, or security deposit trust checking account shall be withdrawn for any purposes except:

1. upon mutual written consent of all parties having an interest in the funds;
2. upon Commission order;
3. upon court order;
4. for the purpose of depositing monies into the registry of the court in a concursus proceeding;
5. for the purposes of depositing the funds with the Commission pursuant to Chapter 29;
6. to disburse funds from a sales escrow checking account to the appropriate party upon a reasonable interpretation of a contract for the sale of real estate;
7. for the purpose of returning the funds to a buyer at the time of closing;
8. to cover the payment of service charges on sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts with such payment being made from funds deposited into the accounts by the broker;
9. upon approval by the Commission in connection with the sale or acquisition of a licensed entity; and
10. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2723. Deposits

A. Any money received in connection with a real estate transaction involving the sale, lease or management of real estate shall be deposited into the appropriate sales escrow checking account, rental trust checking account or security deposit trust checking account of the listing or managing broker unless all parties having an interest in the funds have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2725. Account Closing

A. No sales escrow checking account, rental trust checking account, or security deposit trust checking account may be closed until such time as all deposits therein have been properly disbursed according to law. Every broker shall notify the Commission in writing of the closing of any sales escrow checking account, rental trust account checking or security deposit trust checking account within ten days following the date the account is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2727. Maintaining Accounts

A. Upon revocation, suspension or lapse of his license for any reason, or upon bankruptcy, a broker shall continue

and maintain his sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts until such time as all deposits therein have been properly disbursed according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2729. Corporations, Partnerships and Limited Liability Companies

A. Every licensed corporation, partnership and limited liability company shall open and maintain sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts as specified for resident and nonresident brokers. All funds received from or on behalf of clients in any real estate transaction conducted by the corporation, partnership, or limited liability company as a licensee shall be deposited into these accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2731. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring or qualifying broker of the acquiring agency will advise the Commission in writing of the name of the agency acquired and the anticipated date of the transfer of trust funds. The letter notifying the Commission of the acquisition will specify the account numbers of the sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency requesting that approval be granted for the transfer of funds will accompany the notification to the Commission.

C. The transfer of funds shall not be accomplished until written approval has been granted by the Commission in accordance with §2721.A.9 of this Chapter.

D. Within five working days following the transfer of funds a letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency will be forwarded to the Commission certifying that all trust funds have been transferred. The letter will include the following:

1. a certification that all sales escrow checking account, rental trust checking account, and security deposit trust checking account funds have been transferred to and received by the acquiring agency;
2. a certification that supporting documents for all trust funds have been delivered to and received by the acquiring agency;
3. a listing of all sales escrow checking account, rental trust checking , or security deposit trust checking accounts from which a transfer was made and the amount of funds transferred from each account;
4. a listing of all sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts into which funds were deposited and the amount of funds deposited into each account.

E. The sponsoring or qualifying broker of the agency being acquired will close the escrow accounts and trust accounts from which the funds were transferred within ten days following the transfer of funds and advise the Commission in writing when such action has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2733. Change of Licensing Status

A. An individual real estate broker who elects to become exclusively affiliated with a sponsoring broker, and an active broker transferring to an inactive status, shall continue to maintain their sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts until such time as all deposits therein have been properly disbursed according to law. As of the effective date of relationship with a sponsoring broker, or transfer to inactive status, no further trust funds shall be placed in the accounts. The transferring broker shall advise the Commission in writing within five working days of the effective date of the transfer to the new status of the amount of funds in each escrow or trust account maintained, and the approximate date each account will be closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 29. Disbursement of Escrow Deposits

§2901. Escrow Disputes

A. When a broker determines or has knowledge that a dispute exists as to the ownership or entitlement of a deposit or funds held in a sales escrow checking account, as a result of a real estate sales transaction, it shall be the obligation of the broker holding the funds to immediately notify in writing all of the parties and licensees involved of the dispute, and within 90 days of the scheduled closing date, or determination or knowledge that such a dispute exists, whichever shall first occur, to do one of the following:

1. disburse the funds upon the written and mutual consent of all of the parties involved;

2. disburse the funds upon a reasonable interpretation of the contract which authorizes the broker to hold such funds. Disbursement may not occur until 10 days after the broker has notified, in writing, all parties and licensees;

3. through a concursus proceeding, deposit the funds into the registry of any court of competent jurisdiction and proper venue;

4. deposit the funds including original promissory notes, with the Louisiana Real Estate Commission along with a request for an escrow disbursement order. This request shall include the names and last known addresses of the principals to the agreement, a copy of the purchase agreement, all forms required by the Commission, and copies of any other documents which may have some bearing on the dispute. Note: In the event that the dispute is to be heard by the Commission, it will require that the agents and/or brokers appear before the Commission at its regularly scheduled meeting at which the dispute will be heard;

5. disburse the funds upon the order of a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§2903. Escrow Disbursement Order

A. The Louisiana Real Estate Commission upon receipt of a request for an escrow disbursement order:

1. shall immediately cause the funds accompanying said request to be deposited in an interest bearing escrow checking account pending final disposition;

2. may commence an investigation by its staff of the dispute;

3. may, upon completion of an investigation, consider the investigative findings and at a regular or special meeting issue an escrow disbursement order providing for the disposition and allocation of funds which are being held in escrow and are in dispute;

4. may call an adjudicatory hearing before issuing an escrow disbursement order; or

5. may deposit the disputed funds into a concursus proceeding in any court of competent jurisdiction and proper venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 31. Reporting of Changes of Address or Telephone Number by Licensees, Registrants and Certificate Holders

§3101. Reporting

A. Every licensee, certificate holder and timeshare registrant shall report any changes in the business or residence address or telephone number to the Commission in writing within ten days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3103. Changes in Data Provided by Corporations, Partnerships and Limited Liability Companies

A. Corporations, partnerships and limited liability companies licensed as real estate brokers shall file all reports required by any agency of this state when due and shall notify the Commission at the time of the filing of the reports of any information in the reports which would constitute a change in the information filed with the Commission by the licensed broker prior to the submission of the required reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 33. Compensation

§3301. Full Knowledge

A. Licensees shall not accept compensation from more than one party without the written acknowledgment of all parties to the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 35. Disclosure by Licensee

§3501. Licensee as Principal in a Real Estate Transaction

A. A licensee acting as a principal in a real estate transaction, whether individually or through any entity in which he or she has an interest, shall disclose his or her status as a licensed real estate agent to all other principals in the real estate transaction, in writing, prior to entering into any real estate contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 37. Agency Disclosure

§3701. Agency Relationships in Real Estate Transactions

A. Effective March 1, 1998, agency relations in real estate transactions will be governed by Chapter 4 of Code XV of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:3891-3899.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3703. Agency Disclosure Informational Pamphlet

A. Licensees shall provide the agency disclosure informational pamphlet to all parties to a real estate transaction involving the sale or lease of real property.

B. The agency disclosure informational pamphlet may be obtained from the Commission in a form suitable for use by licensees in reproducing the pamphlet locally. Licensees are responsible for ensuring that the pamphlets are the most current version prescribed by the Commission and that reproductions of the pamphlet contain the identical language prescribed by the Commission.

C. Licensees will provide the agency disclosure informational pamphlet to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact with the sellers/lessors or buyers/lessees when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in LSA-R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets to prospective sellers/lessors and buyers/lessees shall insure that the recipient of the pamphlet signs and dates the receipt included in the pamphlet. The licensee providing the pamphlet shall sign the receipt as a witness to the signature of the recipient, and the licensee will retain the signed receipt for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the receipt included in the agency disclosure informational pamphlet, the licensee shall prepare written documentation to include the nature of the proposed real estate transaction, the time and date the pamphlet was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the receipt. This documentation will be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3705. Dual Agency Disclosure

A. The dual agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. The dual agency disclosure form shall be obtained from the Commission in a form suitable for use by licensees in reproducing the form locally. Licensees are responsible for ensuring that the form is the most current version prescribed by the Commission and that reproductions of the form contain the identical language prescribed by the Commission.

C. Licensees shall insure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent; but in no event later than when a purchase agreement is entered into by the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 39. Presentation of Offers and Counter Offers

§3901. Timely Presentation of Offers and Counter Offers

A. All written offers and counter offers for the purchase of real estate shall be presented to all buyers and/or sellers for their consideration and decision immediately, without delay.

B. The licensee who prepares an offer or counter offer in a real estate transaction shall insure that the time of day and date the offer or counter offer was signed by the offering party are included in the document.

C. The licensee who presents an offer or counter offer in a real estate transaction shall insure that the time of day and date the offer or counter offer was accepted, rejected or countered are included in the document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3903. Negotiations in Exclusive Agency Contracts

A. Negotiations concerning property listed exclusively with a broker shall be carried on with the listing broker or agent designated by the listing broker, not the owner, except with the expressed consent of the listing broker.

B. Negotiations with a buyer who has entered into an exclusive buyer agent contract with a licensed broker shall be carried on with the licensed broker, or agent designated by the licensed broker, not the buyer, except with the express consent of the licensed broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3905. Cooperative Transactions

A. Licensees receiving written offers or counter offers in cooperative transactions shall annotate the offers or counter offers to indicate the time of day and date the offers or counter offers were received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3907. Rejection of Offers and Counter Offers

A. All written offers and counter offers presented to a seller and/or buyer and not accepted shall be clearly marked as rejected and signed by the seller and/or buyer. In any circumstance in which a seller and/or buyer refuses to sign a rejected offer or counter offer, the licensee making the presentation of the offer or counter offer shall annotate this fact indicating the time of day and date of the rejection of the offer or counter offer by the seller and/or buyer. A copy of the rejected offer or counter offer signed by the seller and/or buyer, or a copy of the rejected offer or counter offer bearing the annotation of the licensee, shall be provided to the buyer and/or seller, and the rejected offer or counter offer shall be returned to the prospective buyer and/or seller within five days after the signature or annotation is affixed to the document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§3909. Broker's Authority to Reject Offers or Counter Offers

A. In the event the owner (seller) is not available and grants authority to the listing broker to reject an offer or counter offer, the listing broker or a licensee designated by the listing broker shall mark the offer or counter offer as rejected and sign the offer or counter offer as such in lieu of the owner (seller), but the listing broker or licensee designated by the listed broker shall nevertheless forward a copy of the rejected written offer or counter offer to the owner (seller) for his signature acknowledging the rejection of the offer or counter offer. The copy of the rejected offer or counter offer signed by the owner (seller) shall be retained in the files of the listing broker. In the case of a cooperative transaction, the cooperating listing broker shall provide a copy of the rejected offer or counter offer bearing the signature of the owner to the cooperating selling broker within five days after the signed rejection is received from the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 41. Investigations and Hearings

§4101. Complaints

A. Complaints alleging violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the Commission shall bear the signature of the complainant or that of his or her legal representative before any action will be taken thereon by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4103. Addition of Respondents to Investigations

A. If during the conduct of an investigation documented probable cause is established indicating that violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the Commission have been committed by licensees, timeshare registrants, or certificate holders other than the licensee, timeshare registrant, or certificate holder against whom the original complaint was made, the additional licensees or timeshare registrants may be added as

respondents to the investigation in the absence of any written complaint alleging such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4105. Executive Director May Authorize Investigation

A. Upon documented probable cause, the executive director of the Louisiana Real Estate Commission may issue written authorization to investigate apparent violations of the Louisiana Real Estate License Law and/or the Rules and Regulations of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4107. Adjudicatory Proceedings

A. When, as a result of an investigation, it appears that violations of the Louisiana Real Estate License Law may have been committed by a licensee, registrant or certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

1. Informal Adjudicatory Proceedings

a. The complaint may be concluded informally without a hearing by the Commission on the recommendation of the hearing examiner and the concurrence of the executive director.

b. A preliminary notice of adjudication will be issued to advise the respondent of the violation or violations alleged and to advise the respondent that the matter can be resolved informally should the respondent desire to admit to committing the act or acts specified and submits a written request that the matter be resolved informally.

c. A hearing officer will be appointed by the executive director to conduct an informal hearing with the respondent.

d. The informal hearing will be attended by the case investigator, or in the absence of the case investigator, the chief real estate examiner, who will respond to questions concerning the investigation which resulted in the allegations, and the hearing examiner, who will inform the hearing officer of the administrative, jurisdictional, and other matters relevant to the proceedings. No evidence will be presented, no witnesses will be called and no formal transcript of the proceedings will be prepared by the Commission. Statements made during the informal proceedings may not be introduced at any subsequent formal adjudicatory proceedings without the written consent of all parties to the informal hearing.

e. Following an admission by the respondent at the informal hearing that violations were committed as alleged, the hearing officer may enter into a recommended stipulations and consent order to include the imposition of any sanctions authorized by the Louisiana Real Estate License Law. In the written document the respondent must stipulate to having committed an act or acts in violation of the Louisiana Real Estate License Law or the Rules and Regulations of the Commission, accept the sanctions recommended by the hearing officer, and waive any rights to request a rehearing, reopening, or reconsideration by the Commission, and the right to judicial appeal of the consent order.

f. If at the informal hearing the respondent does not admit to having committed the act or acts specified, does not accept the sanctions recommended by the hearing officer, or does not waive the specified appellate rights, the alleged violations shall be referred to a formal adjudicatory hearing.

g. If the respondent does execute a stipulations and consent order, the executive director shall submit the document to the Commission at the next regular meeting for approval and authorization for the executive director to execute the consent order in the name of the Commission.

h. The actions of the Commission relative to all consent orders shall be noted in the minutes of the meeting at which the consent order is considered and at which authorization is granted to the executive director to execute the order in the name of the Commission.

I. Any consent order executed as a result of an informal hearing shall be effective on the date approved by the Commission.

2. Formal Adjudicatory Proceedings

a. All formal public adjudicatory hearings shall be conducted under the auspices of R.S. 37:1456 and Chapter 13 of Title 49 of the Louisiana Revised Statutes.

b. The order issued by the Commission pursuant to any formal public adjudicatory proceeding shall become effective on the eleventh day following the date the order is issued by the Commission and entered into the record at the proceedings.

c. The date of entry is the date the order is issued by the Commission and entered into the record at the formal adjudicatory proceedings.

d. If a request for rehearing, reopening, or reconsideration of the order of the Commission is timely filed and denied by the Commission, the order of the Commission shall become final on mailing of the notice of the Commission's final decision on the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4109. Appellate Proceedings

A. Rehearings

1. An order of the Commission shall be subject to rehearing, reopening or reconsideration by the Commission on receipt of a written request from a respondent. An application for rehearing, reopening or reconsideration must be postmarked or received at the office of the Commission within ten days from the date of entry of the order rendered by the Commission.

2. The request shall be reviewed by the Commission attorney for compliance with the Administrative Procedures Act. A finding by the Commission attorney that the request does not establish grounds for rehearing, reopening or reconsideration shall result in a denial of the request.

B. Judicial Review

1. Proceedings for judicial review of an order issued by the Commission may be instituted by filing a Petition for Judicial Review in the Nineteenth Judicial District Court in the parish of East Baton Rouge.

2. In the event a request for rehearing, reopening or reconsideration has been filed with the Commission, the party making the request shall have thirty days from the final decision on the request within which to file a petition for judicial review.

3. If a request for rehearing, reopening or reconsideration is not filed with the Commission, the Petition for Judicial Review must be filed in the Nineteenth Judicial District Court within thirty days after the mailing of the order of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4111. Stay of Enforcement

A. The filing of a petition for judicial review by a respondent licensee does not itself stay enforcement of an order issued by the Commission. A stay of enforcement will be granted only when directed by the court conducting a judicial review of adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4113. Costs of Adjudicatory Proceedings

A. On a finding that a respondent has committed the violations as alleged in any formal or informal adjudicatory proceedings, the Commission may assess the respondent the administrative costs of the proceeding, as determined by the Commission. Payment of these costs shall be a condition of the reinstatement of any license, registration, or certificate issued by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 43. Licensee, Timeshare Registrant, and Certificate Holder Responsibilities

§4301. Knowledge of the Law

A. It shall be the duty of all licensees, certificate holders, and timeshare registrants to have knowledge and be aware of all laws regulating the real estate industry in Louisiana including, but not limited to, these rules and regulations and the Louisiana Real Estate License Law as set forth in Chapter 17, Title 37 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 45. Franchise Operations

§4501. Registration of Franchise Name

A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation shall offer for sale, lease, rent, or use in any way, any franchise name to be publicly utilized or used by a licensed Louisiana real estate broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4503. Registration of Franchise Operation

A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation engaged in a franchise operation of real estate brokerage firms shall operate in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4505. Application for Registration

A. Any person, partnership, limited liability company, or corporation which intends to operate or do business as a franchiser of real estate brokerage firms in Louisiana shall make application to the Louisiana Real Estate Commission for registration. Applications for registration shall contain the following information and supporting documents:

1. name, address, and whether the applicant is a person, partnership, limited liability company, or corporation;

2. partnership and limited liability company - the names and addresses of all partners or principals;

3. corporation - names and addresses of officers and members of the board of directors and the place of incorporation;

4. partnership, limited liability company, or corporation - a certified copy of the articles of incorporation or the document establishing the partnership or limited liability company;

5. a certified, audited financial statement disclosing the current financial condition of the applicant;

6. a statement of the business activities of the applicant, including a description of the franchise agreement to be used in connection with the Louisiana real estate brokers, and a list of the states in which the franchiser is qualified to do and/or is doing business.

B. Upon receipt of the application for registration, the Commission may require such additional information as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4507. Agent for Service of Process

A. If the applicant is not a resident of Louisiana, it shall appoint a licensed active Louisiana individual real estate broker to act as the applicant's agent for the service of all judicial process or legal notices directed to such applicant. Service upon the agent so designated shall be equivalent to personal service upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4509. Annual Registration

A. If the requirements set forth herein are met the Commission shall register the franchiser for a period of one year. The franchiser shall then renew each year by furnishing the Commission with all information as would modify or change the information previously submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4511. Renewal Requirements

A. Each application for renewal by a franchiser shall be submitted on or before January 15 of each year and shall reflect the information required by the Commission for the preceding year.

B. Any application for renewal by the franchiser shall also include the name and address of any licensed Louisiana

broker that is operating under a franchise agreement with the franchiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4513. Penalty

A. Any person, partnership, limited liability company, or corporation which operates in Louisiana as a franchiser of real estate brokerage firms, without the specific authority to do so as granted by the Louisiana Real Estate Commission, shall be subject to a penalty of the refusal by the Commission to allow said person, partnership, limited liability company, or corporation to operate or do business in Louisiana for a period of at least one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4515. Violations of Law

A. The Commission shall have the power to withdraw any registration and/or issue a cease and desist order, after a hearing, to any franchiser that is subject to these rules and regulations, upon determination that any federal or state law or Commission regulation has been or will be violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 47. Waiver of Renewal Requirements

§4701. Veteran Waiver

A. Licensees who are inducted into military service or those licensees in the military who are transferred out of state shall, upon furnishing appropriate evidence of their honorable service, be entitled to renewal of their licenses, without penalty, provided application is filed within six months following discharge. The provisions of this Section shall extend to spouses of persons described herein above who were licensed at the time of such induction or transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 49. Reciprocity

§4901. Licensing

A. The Commission may enter into a reciprocal agreement with the appropriate authority of any other state to permit any resident of that other state who is licensed there as a real estate broker or salesperson to obtain an equivalent Louisiana nonresident license and engage in the real estate business in Louisiana if that other state agrees to similarly grant a nonresident license to any Louisiana resident broker or salesperson and permit the licensee to engage in the real estate business in that other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4903. Requirements for License

A. Any person residing in and licensed as a real estate broker or salesperson in a state whose appropriate authority has entered into a reciprocal agreement with the Commission shall be granted an equivalent non-resident

license by the Commission upon applying and complying with the following requirements:

1. providing the Commission with sufficient proof of his licensing by his resident state;

2. paying all fees prescribed for an equivalent Louisiana resident license;

3. filing an irrevocable Appointment of Agent for Service of Process with the Commission appointing the executive director as the licensee's agent for service of process in all matters arising out of or in conjunction with any real estate activities conducted by the licensee in Louisiana;

4. corporation - procuring a certificate of authority to do business in Louisiana from the Louisiana Secretary of State and providing the Commission with a copy; and

5. partnership or limited liability company - procuring a certificate of registry as a foreign partnership from the Louisiana Secretary of State and providing the Commission with a copy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§4905. Nonresident Licensee

A. The nonresident licensee is bound, in all respects, by the provisions of the Louisiana Real Estate Licensing Law (R.S. 37:1431, et seq.) and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 51. Out-of-State Broker Cooperation

§5101. Broker Cooperation

A. A Louisiana broker may cooperate with a licensed broker of another state in the sale, lease or management of real property located in Louisiana within the limits provided in the Louisiana Real Estate License Law and Rules and Regulations of the Commission under the following conditions.

1. The sale, lease or management shall be handled under the direct supervision and control of the Louisiana broker who shall take full responsibility for all actions of the out-of-state broker. All advertising of any kind must contain the names of both the Louisiana licensed broker and the out-of-state broker. The out-of-state broker may place a sign on real property located in Louisiana with the written consent of the Louisiana licensed broker.

2. Any monies collected on behalf of others shall be maintained in the Louisiana broker's sales escrow checking account, rental trust checking account or security deposit trust checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

3. In each instance herein where a Louisiana broker enters into a cooperating agreement with an out-of-state broker for the sale, lease or management of Louisiana real property, the Louisiana broker must file one copy of a cooperating agreement with the Louisiana Real Estate Commission prior to the property being advertised, shown, or any contract taken. A written cooperating agreement describing the property involved must be filed for each separate transaction. This agreement must contain verbiage

wherein both the Louisiana broker and the out-of-state broker agree to sign all written reports and contracts and comply with the Louisiana Real Estate License Law and Rules and Regulations of the Commission in all respects.

4. Any fee or commission received as a result of a cooperative transaction shall be paid to the Louisiana broker who will, in turn, compensate the out-of-state broker. The percentage of fees or commission to be received by the Louisiana broker and the out-of-state broker shall be negotiable between the two parties and shall be agreed upon, in writing, by the parties in their cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5103. Referral Fees

A. A licensed broker in this jurisdiction may divide or share a real estate commission with a licensed broker in another jurisdiction whenever the licensed broker in the other jurisdiction acts only as a referral agent who is not involved in the actual negotiations, execution of documents, collections of rent, management of property, or other real estate brokerage activity in a real estate transaction which involves more than the mere referral of a client or customer to the licensed broker of this jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5105. Jurisdiction Over Out-of-State Activities

A. The Commission shall have the power to impose any sanction permitted by this law on any licensee of this jurisdiction who performs or attempts to perform any of the acts of a licensee on property located in another jurisdiction without first having been properly licensed in that jurisdiction or otherwise having fully complied with that jurisdiction's laws regarding real estate brokerage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 53. Real Estate Schools

§5301. Education Division

A. The Louisiana Real Estate Commission does hereby create the Education Division which shall be responsible for real estate school, instructor, and continuing education vendor certification. The Education Division shall administer on behalf of the Commission all regulations, laws and other matters pertaining to real estate education programs under the jurisdiction of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5303. Approval of Schools

A. The following regulations apply to real estate schools seeking approval to conduct a course of education in real estate subjects for precicensing requirements as prescribed under R.S. 37:1460.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5305. Course Curriculum

A. The Commission shall require certified real estate schools to follow model curriculum guidelines established by the Commission in courses offered for salesperson and broker prelicensing credits.

B. Courses of instruction offered by certified real estate schools shall be designated as follows:

1. Real Estate 101-90 hour course in real estate principles/practices
2. Real Estate 201-90 hour basic fundamentals review for broker applicants;
3. Real Estate 202-30 hour course on Louisiana License Law, Rules and Regulations of the Commission and Louisiana Civil Law;
4. Real Estate 203-30 hour broker responsibilities course.

C. The Commission may approve real estate course work obtained through colleges, universities, nationally recognized institutes or other sources for credit toward the salesperson or broker prelicensing requirement. No waiver will be granted for Real Estate 202 and Real Estate 203 when required as a condition of licensing; however, the Education Division may authorize the substitution of course work obtained from other educational sources if it is determined that such courses are equivalent to the content requirements of Real Estate 202 or Real Estate 203.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5307. Certificate of Authority

A. No person shall operate a real estate school from which the Commission will accept a certificate of completion in satisfaction of prelicensing requirements unless such person applies for and is granted a certificate of authority in good standing issued by the Commission.

B. No certificate of authority shall be issued or renewed for any school applicant holding a real estate broker license whose school is designed, intended and/or primarily used for instruction of that same broker/owner's future salesperson or broker affiliates.

C. Each applicant for a certificate of authority to operate a real estate school shall comply with the following:

1. file with the Commission a fully completed application on forms prescribed by the Commission and accompanied by appropriate fees as provided in R.S. 37:1443;

2. submit with the application three letters of reference from responsible parties which provide information relating to the applicant's integrity, character, and/or qualifications and experience in real estate or related education;

3. at application, or prior to final approval of the certificate of authority, and for each renewal period thereafter, furnish proof of coverage of a school surety bond as issued by an insurance company authorized to do business in this state, conditioned for the protection of the contractual rights of those real estate students attending said school and in the amount of \$10,000.00;

D. The Commission shall issue a certificate of authority to operate a real estate school upon a determination that the applicant has met all requirements of certification.

E. Certificates of authority issued under this Section shall be valid for a maximum of one year and shall expire on December 31 of each year.

F. Failure to submit a timely application for renewal of a certificate of authority by December 31 may result in an assessment of a delinquent penalty as provided in the Louisiana Real Estate License Law. The period for delinquent renewal of an expired certificate of authority will be limited to the six-month period immediately following the expiration date of the certificate of authority. Thereafter, the application will be treated as an initial application insofar as fees and filing information are concerned.

G. Real estate schools shall not schedule courses which will extend beyond December 31 unless renewal of the certificate of authority has been applied for and approved by the Commission.

H. All Louisiana state and private colleges and universities where a real estate course is given in a regular curriculum are exempt from filing for this certificate of authority. The Commission reserves the right to require compliance with all requirements of this Section, except for assessment of application fees, from those courses offered through continuing education divisions of colleges and universities.

I. State vocational-technical schools or parish school boards which conduct courses in real estate and receive certification from the Commission shall meet all requirements required of proprietary schools except for application fee requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5309. School Owners and School Directors

A. Each approved school shall designate a school director who shall be responsible to the Commission for all aspects of operations of the school, to include the specific courses of education to be conducted and submission of reports and other information required or requested by the Commission.

B. School directors shall coordinate school branch locations and disseminate information pertaining to changes in the license law, rules and regulations, or policies of the Commission to all staff, instructors, and school employees.

C. School owners and school directors shall cooperate with Commission personnel in all matters pertaining to the administration of the school and shall appear and testify under oath at any hearing held by the Commission when requested to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5311. Instructor Qualifications

A. Except for guest lecturers, persons instructing at a state certified school must be state certified by the Commission or hold an equivalent certification or designation acceptable to the Commission.

B. Any applicant applying for a state certified real estate instructor certificate shall file an application with the Commission in such form as prescribed by the Commission and accompanied by appropriate fees as prescribed in R.S. 37:1443, provide proof of passing a real estate instructor

assessment examination specified by the Commission, and possess at least one of the following qualifications:

1. a bachelor's degree with a major in real estate from an accredited college or university;

2. a bachelor's degree from an accredited college or university and at least two years experience in the real estate business;

3. a real estate broker's license and a minimum of five years experience in the area of proposed study;

4. a Juris doctorate degree or the equivalent from an accredited law school and a minimum of three years experience in the area of the proposed study;

5. two years experience as a qualified instructor or professor in the business, finance or economics department of an accredited college or university; or

6. any qualifications which in the opinion of the Commission constitutes the equivalent of one or any combination of the above mentioned qualifications.

C. An instructor certificate shall be issued only after a determination has been made by the Commission that the applicant has met the requirements of certification.

D. Instructor certificates issued under the provisions of this section shall be valid for a maximum of one year and shall expire on December 31 of each year.

1. Failure to renew an instructor certificate by December 31 may result in the assessment of a delinquent penalty as provided in the Louisiana Real Estate License Law. The period for delinquent renewal of an instructor certificate will be limited to the six-month period immediately following the expiration date of the certificate. Thereafter, the application will be treated as an initial application insofar as fees and filing information are concerned.

2. Any application for renewal of an instructor certificate must be accompanied by proof of the applicant's successful completion of eight hours of continuing education course work approved by the Commission and completed during the current certification period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5313. Guest Lecturers

A. Persons selected by approved schools to instruct as a guest lecturer in an approved prelicensing course shall meet at least one of the following qualifications:

1. a college or university professor in real estate, finance, economics, or a related field;

2. a specialist with a degree or professional designation with expertise in the specific topic of instruction;

3. a licensed real estate professional with at least five years experience in the area of proposed instruction.

B. Guest lecturers shall not be utilized as instructors in prelicensing courses pertaining to the Louisiana Real Estate License Law or the Rules and Regulations of the Commission.

C. Guest lecturers shall not be used by approved schools as staff instructors. The Commission may require that guest lecturers teaching on a regular basis be required to apply for and obtain certification as a real estate instructor under §5311 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5315. School Facilities

A. Every school shall utilize facilities meeting the following standards.

1. The premises, equipment and facilities of the school shall comply with all local, city, parish and state regulations, such as fire codes, building and sanitation codes.

2. The school shall provide adequate space, seating, equipment, and instructional material to accommodate the number of students enrolled and in attendance.

B. Facilities are subject to inspection by representatives of the Commission prior to approval or subsequent thereto during regular school hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5317. School Records

A. Real estate schools shall maintain accurate and properly indexed records on all students for at least a five year period after course completion and shall make those records available for inspection upon request of the Commission or its representatives.

B. Real estate school records shall include, but are not limited to, the following information:

1. complete name and address of each student;

2. total classroom hours and title(s) of courses undertaken by each student;

3. dates of attendance at those courses by each student;

4. test scores or pass/fail indication for each student;

5. copy of student contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5319. Tuition/Fees and Student Contract

A. Each real estate school shall enter into a written contract with each of its students.

B. The tuition and fees charged by the school for a specific course of instruction shall be clearly set forth in each student's contract, and a copy of the contract, signed by an authorized representative of the school, shall be provided to the student immediately after the contract is signed by both parties.

C. If additional fees are to be charged for supplies, materials or required books, these charges shall be clearly itemized by the school in the student contract, and such supplies, materials or books shall become the property of the student upon payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5321. Course Reporting Requirements

A. Real estate schools shall submit, in a timely manner, information concerning schedules, class locations, attendance reporting affidavits and other related information as required by the Commission. The Commission will

provide each school with the necessary forms and instructions for reporting course scheduling and completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5323. Certificates of Completion—Classroom Hours

A. Each real estate school shall provide an individual certificate of completion or comparable completion verification to each student only upon successful completion of a course of study. Such verification shall include student name, date of completion, course level, number of hours completed, and shall be signed by the school director or an authorized designee.

B. No certificate of completion shall be accepted from any real estate school that is not in good standing with the Commission on the date of certificate issuance.

C. Credit shall not be given for any classroom hour consisting of less than fifty minutes of instruction and/or study. A classroom hour is defined as sixty minutes, of which fifty minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations which are considered to be part of the course. Real estate schools shall not give credit to any student for completing more than eight hours of instruction in one calendar day.

D. In compliance with requirements of the Americans with Disabilities Act (ADA), alternative methods of course delivery are permitted to accommodate students with special needs. Such alternative arrangements shall be documented by the school and reported to the Commission prior to the beginning of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5325. Prohibition Against Recruiting

A. No person shall at any time, while on the premises of a certified real estate school, discuss the sponsorship of any student by any licensee of the Commission. Schools shall display the following statement in classrooms where prelicensing courses are being taught and the school director shall insure that the instructor of each orientation session read the following statement to the students at the beginning of the session: "No person shall discuss the sponsorship of any student by any licensee of the Commission while on the school premises, or by any means, verbal or written, conduct any activity which in any way relates to the future sponsorship of any student by any licensee of the Commission."

B. Unless an exemption has been applied for and granted by the Commission as specified in this section, an applicant for a real estate license cannot, for a period of one year after successful completion of real estate prelicensing education, be licensed with the sponsoring broker of an owner, instructor, guest lecturer or member of the administrative staff of the real estate prelicensing school attended by said applicant. Applicants for licensing may request a waiver of this regulation provided the following conditions are met.

1. An application for exemption shall be submitted on an affidavit form provided by the Commission and contain a notarized statement from applicant and sponsor attesting to the fact that their decision to affiliate was in no way

influenced by said broker's affiliation with a state certified real estate school.

2. Request shall be received and acted upon by the Commission at least ten days prior to the applicant's enrollment in a scheduled prelicensing course of study. Waiver of the ten-day requirement will be granted only upon a determination by the Commission that extenuating circumstances prevented the timely filing of the exemption request.

C. No brokerage firm may operate a real estate school under the same legal entity as the brokerage firm.

D. No real estate school shall be operated in an office that is also utilized for the operation of a brokerage firm. For the purpose of this rule, operation by a real estate school shall mean the conducting or doing business in any manner including, but not limited to, the holding of classes, the instruction of students, the use of telephone lines, the occupying of office space, and the enlistment, solicitation and/or recruitment of potential students or licensees.

E. No real estate school may provide any name or list of names of any potential licensee(s) or student(s) whether potential or enrolled in any real estate school to anyone other than the Louisiana Real Estate Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5327. Change of Address

A. Every certified real estate school, school director and certified real estate instructor shall report any change in the address or phone number of a business residence to the Commission within 10 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5329. School Advertising

A. Advertising by certified schools shall be clear, concise and accurate. All advertisements shall be in the name of the real estate school as certified by the Commission and shall include the school's certificate of authority number assigned by the Commission.

B. Any advertising which includes price quotes for a course shall accurately reflect total costs including any books and materials required for the course.

C. The Commission may require that a school furnish proof of any of its advertising claims. Retractions of unfounded advertising claims may be ordered by the Commission. Such retractions shall be published in the same manner as the original claim and be paid for by the violator.

D. Real estate school advertising shall not be combined with any advertisement of a real estate brokerage business or vice versa.

E. Certified real estate schools shall not advertise or offer any guarantee to pass the state real estate licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5331. School Inspections

A. Real estate schools certified by the Commission shall be subject to review and periodic audits by official

representatives of the Commission. Representatives may observe classroom activities, evaluate course content, instructor proficiency, and/or audit school reporting/attendance records to insure that courses are being conducted in accordance with the provisions set forth in R.S. 37:1460 and this Chapter. If the school is determined to be deficient in any of these areas, a deficiency report specifying the areas of deficiency and a date by which the deficiencies are to be corrected will be provided to the school by the Commission. Any school receiving a deficiency report shall correct any deficiencies noted by the date designated by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 55. Real Estate Post Licensing and Continuing Education Vendors

§5501. Vendor Approval

A. The following regulations apply to entities seeking approval to conduct educational courses to meet real estate post licensing and continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5503. Application

A. Any entity desiring to act as an approved real estate post licensing and/or continuing education vendor shall file an application with the Commission. Each initial application shall be fully completed, notarized and accompanied by the following:

1. a financial statement of the person, partnership, corporation or legal entity which is seeking an approved education vendor certificate;
2. three letters of reference from responsible persons with information relating to applicant's integrity, character, responsibility and/or qualifications and experience in real estate education;
3. appropriate fees as required;
4. name, address and biographical information on each proposed instructor;
5. complete information on each proposed course offering; and
6. any additional information as requested and deemed necessary by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5505. Bond Requirement

A. Each initial and renewal applicant for an approved post licensing and/or continuing education vendor certificate shall obtain and file with the Commission proof of coverage of a \$5,000.00 surety bond as issued by an insurance company authorized to conduct business in this state. The bond shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of those students attending post licensing and/or continuing education courses of said vendor. In cases where state certified prelicensing real estate schools apply for and obtain a post licensing and/or continuing education vendor certificate, the school's required \$10,000.00 surety bond may

be used to satisfy the requirements for prelicensing, post licensing and continuing education bond coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5507. Application Review

A. An initial application shall be reviewed and acted upon no later than thirty days from the date the application is received at the Commission office. If the application is rejected, the applicant may appeal the decision to the Commission. If such an appeal is made, the applicant will be required to appear before the Commission at a regularly scheduled meeting to speak on behalf of and to respond to questions and concerns pertaining to the application. If the application is denied by the Commission no further appeal will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5509. Application Approval

A. Upon approval of any initial application for an approved vendor certificate, the Education Division shall assign an approved vendor number to the person, partnership, corporation or legal entity granted approved vendor status. The approved vendor number shall appear in any advertisements of approved courses by the vendor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5511. Application Denial

A. When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction, such untrustworthiness of the applicant, and the conviction, may in and of itself be sufficient grounds for refusal of a certificate.

B. When an applicant has made a false statement of material fact on his application, such false statement may in and of itself be sufficient grounds for refusal of a certificate.

C. Previous revocation of a real estate license held by an applicant shall also be grounds for refusal to grant a certificate.

D. In addition to the grounds for denial of an application specified in A through C of this Section, an application for an approved vendor certificate may be rejected if the applicant fails to qualify in one or more of the following areas:

1. financial stability of applicant;
2. experience and capability of entity requesting approved vendor certificate;
3. experience and capability of proposed instructors;
4. suitability or quality of proposed course offerings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5513. Certificate Renewal

A. Approved vendor certificates shall be granted on a calendar year basis, expiring on December 31 of each year.

Failure to submit a timely application for renewal by December 31 shall result in an assessment of a delinquent penalty. The period for delinquent renewal of an approved vendor certificate will be limited to the six-month period immediately following the expiration date of the certificate. Thereafter, the application will be considered as an initial application insofar as fees and filing information are concerned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5515. Eligibility of Courses

A. Post Licensing

1. Approved post licensing courses must be open to the public. Each course acceptable for credit toward fulfillment of the thirty-hour post licensing requirements for salespersons or brokers must be a minimum of four hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

2. Approved continuing education courses which do not require an examination will not be considered toward post licensing requirements.

3. Approved schools and vendors shall not incorporate post licensing instruction and hours with prelicensing and/or continuing education instruction and hours.

B. Continuing Education

1. Approved continuing education courses must be open to the public. Courses accepted for credit toward the continuing education requirement shall consist of a minimum of two hours of instruction and may include, but are not limited to, the following subject areas:

- a. appraisal;
- b. finance;
- c. taxes;
- d. toning;
- e. Louisiana Real Estate License Law/Commission rules and regulations;
- f. environmental quality;
- g. federal laws affecting real estate (includes HUD and fair housing regulations);
- h. property management.

C. Each course registered with the Commission shall expire on December 31 unless updated, submitted for renewal by the approved vendor, and approved for renewal by the Commission. The vendor shall notify the Commission of any changes in course material which may substantially alter a course offering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5517. Requirements for Submission of Additional Course Approval Requests by Approved Vendors

A. Approved education vendors shall apply for and receive approval for any new courses to be offered by the entity prior to advertising or offering the course to licensees. Each additional course application shall be accompanied by the following items:

1. applicable filing fees;

2. complete information on proposed course including title, course description, length of course, outline, and , for post licensing only, a copy of the course final examination;

3. name, address and resume' of each proposed instructor, if applicable.

B. If a request for additional course approval is rejected, the vendor may appeal the decision to the Commission. No additional review fee will be required for such an appeal. If the request is denied by the Commission no further appeal will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5519. Post Licensing and Continuing Education Course work by Correspondence

A. Approved education vendors shall apply for and receive approval of correspondence study course(s) prior to any public offering. Passage of an examination is a requirement for all post licensing courses. Passage of an examination is not a requirement for classroom continuing education courses; however, licensees choosing to complete their continuing education through correspondence or distance learning courses will be required to comply with specific course completion verification procedures applicable to correspondence or distance learning courses. Each correspondence course application shall be accompanied by the following items:

1. applicable filing fees;
2. complete information on proposed course, including title, course description, length of course, outline, and a copy of the required test.

B. Applications for approval of correspondence courses shall comply with the following where applicable.

1. Written correspondence courses

a. A workbook consisting of a minimum of 20 typed pages, not smaller than 8½"x 11" in size, per two hours of continuing education correspondence study credit or a workbook consisting of a minimum of 40 typed pages, not smaller than 8 ½ x 11 in size, per four hours of post licensing education is required. If the course meets only the minimum of pages, the type cannot be larger than 12 point. Minimum standards require that paragraphs may be indented not more than 10 spaces and a maximum of one line of space may appear between paragraphs. Charts and graphs are not to be included in the required minimum page total. The top margin of the page cannot exceed 1¼", the bottom margin 1½", and the side margin 1". The Commission reserves the right to approve an offering which marginally meets the minimum page requirement. Such approval will be based on a determination that the time period required to complete the course exceeds the credit hours requested based on the technical nature of the subject matter.

2. Audio/visual correspondence courses

a. Video taped material may be submitted for approval as a complete course offering or in conjunction with written correspondence. The applicant shall provide a complete written transcript of any video taped material submitted for approval.

b. Audio only courses shall be formatted in segments consisting of taped lecture of at least two hours for

continuing education purposes or at least four hours for post licensing purposes. The applicant shall submit a written transcript of the taped lecture with each request for audio approval.

3. Computer generated correspondence courses

a. Computer generated correspondence courses will be considered for approval provided the applicant submits course materials in the exact format to be offered for education credit.

b. The Commission, at its discretion, may request a written transcript of a proposed computer generated course offering prior to a final determination of the suitability of the course for education credit.

4. Other distance learning education

a. Distance learning education courses may be considered for approval provided the courses meet the conditions for delivery specified in the standards for distance education established by the Association of Real Estate License Law Officials (ARELLO) and provided the course content is in a real estate subject approved by the Commission for post licensing or continuing education credit for Louisiana licensees.

C. Every correspondence course for post licensing or continuing education shall require students to complete a written test consisting of a minimum of twenty multiple choice questions with four possible choices (a,b,c and d) for each two hours of continuing education credit or a minimum of forty multiple choice questions with four possible choices (a,b,c and d) for each four hours of post licensing credit. The written assignment or test a student submits for grading shall include the following statement:

I certify that I have personally completed this assignment.

Student's Signature _____ Date _____

D. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post licensing or continuing education credit.

E. No changes will be made to approved correspondence course material without the prior written approval of the Commission.

F. Education vendors shall:

1. have the student's name, social security number, address and payment prior to the student receiving the course;

2. not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached;

3. not grade any test which does not contain the signed certification required by paragraph C, above;

4. certify students as successfully completing a course only if the student completes any required written assignments and pass the required examination on course content;

5. issue certificates containing the following information to students completing education by correspondence:

a. complete name of approved vendor and LREC vendor code;

b. name and social security number of student completing course;

c. specific course title;

- d. number of hours of education received;
- e. date of course completion;
- f. signature of verifier of course completion;
- g. indication that student successfully completed examination on course content;
- h. correspondence study completion noted with the notation, "correspondence" or "C".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5521. Post Licensing and Continuing Education

Instructor Qualifications

A. With the exception of guest lecturers, only those persons meeting at least one of the following qualifications will be permitted to instruct approved post licensing and continuing education courses on a regular basis:

1. a state certified real estate instructor holding a current certificate;

2. a college or university professor in real estate, finance, business, economics, or related field; or

3. a specialist with a degree or designation and experience teaching the subject(s) of proposed instruction;

4. a licensed real estate professional with at least five years experience in the area of proposed instruction.

B. Guest lecturers shall not be utilized as instructors in courses pertaining to the Louisiana Real Estate License Law or the Rules and Regulations of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5523. Prohibition of Recruiting

A. No person shall, at any time, while on the premises or facilities where an approved education course is being taught, discuss the sponsorship of any student by any licensee of the Commission. Approved vendors shall display the following statement in classrooms where continuing education courses are being taught: "No person shall discuss the sponsorship of any student by any licensee of the Commission while on these premises, or by any means, verbal or written, conduct any activity which in any way relates to the future sponsorship of any student by any licensee of the Commission."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5525. Course Fees

A. When fees are charged for an approved course offering, vendors shall enter into a signed written agreement with each individual stipulating the cost of the course and the vendor's refund policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5527. Course Completion Verification and Reporting Requirements

A. Each approved vendor shall provide written verification of attendance to each course participant and shall provide the Commission, on a monthly basis, attendance verification on each participant. Approved vendors may be required to use a standard certificate as

specified by the Commission. Verifications shall include, but may not be limited to, the following:

1. complete name of approved vendor and LREC vendor code;
2. name and social security number of participant;
3. specific course title;
4. number of hours completed;
5. date and, if applicable, an indication of successful completion of an examination on course content;
6. signature of verifier of the course completion;
7. when applicable, correspondence study completion noted.

B. Approved vendors shall submit to the Commission monthly schedules of course offerings and attendance verification reports on each completed course. Such schedules shall be submitted to be received by the Commission at least ten days prior to the beginning of each month. The information is to be submitted on forms provided by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5529. Record Keeping

A. Approved vendors shall maintain, for five years, attendance records on each person completing an approved course offering. In cases where a participant requires a duplicate of an attendance/verification record, it is the responsibility of the vendor to provide a proof of completion verification to the participant. Reasonable fees, if assessed for duplicate records, are to be determined by the vendor.

B. Approved vendors shall maintain properly indexed information on each approved offering, including all records of attendance/verification reports submitted to the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5531. Inspection or Monitoring of Approved Vendors/Courses

A. Commission representatives may audit any approved course offering to determine adequacy of course presentation, content and compliance with post licensing and/or continuing education regulations.

B. Commission representatives may inspect vendor records during regular business hours to determine compliance with record keeping requirements specified in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5533. Prelicensing Schools Offering Post Licensing and Continuing Education Courses

A. In addition to prelicensing courses, any state certified real estate school may offer post licensing and continuing education courses, provided the school applies for and receives approved continuing education vendor status. No additional initial or renewal fees will be required of the school; however, filing fees for each additional course approval request will be required as provided in R.S. 37:1443.

B. A separate Louisiana Real Estate Commission vendor code will be assigned to the school upon compliance with post licensing and/or continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5535. Advertisement

A. All advertisements by approved vendors shall state the exact name of the vendor as registered with the Commission and the LREC vendor code number assigned by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5537. Change of Address

A. Any change in the address or telephone number of the administrative offices of an approved vendor shall be reported to the Commission within ten days of the effective date of such change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5539. Post Licensing and Continuing Education on an Individual Basis

A. The Commission will consider for credit, on an individual basis, course work completed by licensees through non-approved providers including, but not limited to, colleges and universities, national appraisal organizations, the societies, institutes and councils of the National Association of REALTORS, National Association of Real Estate Brokers, and federal, state and local governmental entities.

B. Licensees seeking approval for course work obtained through non-registered vendors/providers shall apply for such approval by submitting documentation of attendance, hours completed, date of attendance, and detailed course content information and, if applicable, verification of successful completion of an examination on course content.

C. The Commission may approve, on a one time basis, courses offered by entities not registered as approved vendors with the Commission. Such approvals may be granted to no more than three specific locations per non-registered vendor and shall be limited to two courses per non-registered vendor within a one year period. Non-registered vendors requesting approval beyond this limit will be required to submit an application and receive approval as an approved vendor to be eligible to offer additional courses for post licensing and/or continuing education credit. Entities requesting approval under this provision shall comply with specific application and reporting procedures required by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5541. Commission Sponsored Seminars — Continuing Education Only

A. As required by law, each year the Commission will provide annual continuing education courses sufficient to

satisfy the mandatory continuing education requirement at no additional cost to the licensee.

B. Funds for the Commission sponsored programs are derived from the Real Estate Research and Education Fund as provided in R.S. 37:1464.

C. Licensees attending Commission sponsored seminars shall comply with all attendance requirements and shall not engage in conduct that is abusive, threatening or in any way degrading the representatives of the Commission who have been assigned to monitor the seminars, or to any other person present at the seminar. Licensees who engage in such conduct, shall be directed to immediately leave the premises and a written report of the incident will be completed and submitted to the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5543. Seminar Instructor Qualifications

A. Instructors teaching Commission sponsored seminars shall qualify in one of the following categories:

1. a state certified real estate instructor's certificate in good standing with the Commission;
2. a college or university professor in real estate, finance, business, economics or related field; or,
3. a specialist with a degree or designation with at least five years experience in the area of proposed course instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5545. Minimum Length of Courses

A. Courses of instruction for continuing education purposes will not be approved by the Commission if the total instruction time is less than two hours. Courses of instruction for post licensing purposes will not be approved by the Commission if the total instruction time is less than four hours. Time devoted to breakfasts, luncheons, dinners or other refreshments shall not be counted as instruction time.

B. Credit shall not be given for any classroom hour consisting of less than fifty minutes of instruction and/or study. A classroom hour is defined as sixty minutes, of which fifty minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations if a required part of the course. Vendors shall not grant credit to any student for completing more than eight hours of instruction in one calendar day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Chapter 57. Timeshares

§5701. Requirements for Processing

A. Every applicant for initial registration as a timeshare developer or timeshare salesperson shall submit to the Commission a fully completed application on a form provided by the Commission accompanied by the prescribed fees.

B. Every application for an initial timeshare salesperson registration shall contain the name of the developer for whom the applicant will be working following registration

and shall be signed by a designated representative of that developer.

C. Applicants for registration as timeshare developers shall submit the following to the Commission at the time of filing for registration:

1. sample copies of the conveyance and financing forms and, when applicable, copies of the public offering statement and a certified copy of the timeshare declaration;

2. when applicable, an affidavit, signed by the chief executive officer or managing partner of the developer and by any natural person having an ownership interest exceeding ten percent in either the developer or entities which control it, that states under penalty of perjury that the affiant has read the timeshare declaration and all attached documents, and that they are true and correct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5703. Receipt of Application

A. Every application shall be received and approved by the Commission prior to the date the applicant engages in the business of selling timeshare interests within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5705. Bonds

A. At the time of initial application, each applicant for registration as a timeshare developer shall provide evidence of one bond issued in favor of the state by a surety company authorized to do business in this state in the amount of one thousand dollars per unit week included in the timeshare plan in accordance with R.S. 9:1131.4D.

B. At the time of initial application, each applicant for registration as a timeshare interest salesperson shall provide evidence of one bond issued in favor of the state by a surety company authorized to do business in this state in the amount of \$10,000.00 in accordance with R.S. 37:1437.1E.

C. A new bond or a renewal or continuation of the original bond shall be required for each registration period. If a continuous bond is filed, no new or renewal bond is required as long as the continuous bond remains in force and effect.

D. In the event a bond is revoked or canceled by the surety company, the timeshare registration of the named bondholder shall automatically be suspended until such time as a new bond is filed with the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5707. Fees

A. Registration fees shall cover a period of one calendar year and shall not be prorated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5709. Automatic Suspension for Non-Renewal

A. If a developer's timeshare registration is suspended or revoked, no sales of timeshare interests in that project may be conducted by that developer, by any timeshare sales

registrant working for that developer, or by any licensed real estate broker or salesperson working with that developer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5711. Terminations

A. A developer who wishes to terminate an association with a sales registrant shall return the registrant's sales registration certificate to the Commission along with a properly executed transfer form as provided by the Commission.

B. A sales registrant who wishes to terminate an association with a developer shall request, in writing, that the developer return that registrant's sales registration certificate to the Commission, and shall sign the appropriate transfer form as proof of the request.

C. A sales registrant may transfer to another developer upon submission of a property executed transfer form signed by both the registrant and a designated representative of the developer. This transfer request shall be accompanied by a new bond and appropriate transfer fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5713. Advertising

A. Any advertising material relating to a timeshare plan or solicitation shall be filed with the Louisiana Real Estate Commission by the developer prior to use. All such advertising shall be in compliance with R.S. 9:1131.12.

B. The developer shall file each prize and gift promotional offer to be used in the sale of timeshare interests with the Commission prior to its use.

C. Prize and promotional offers shall be accompanied by a filing fee in accordance with R.S. 37:1443. Each filing of a prize and gift promotional offer with the Commission shall be in compliance with R.S. 9:1131.13.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5715. Establishment of Escrow Account

A. Where applicable, the developer of each timeshare plan that has timeshare property located in Louisiana, or who maintains a sales office in Louisiana for the sale of timeshare interests, shall establish interest bearing escrow accounts in the developer's name at a financial institution in the parish where the timeshare property or sales office is located, in accordance with R.S. 9:1131.16 and 17.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5717. Affidavit of Authority

A. Every developer of a timeshare plan shall submit to the Commission notarized affidavits attesting to the existence, location and account number of the developer's escrow accounts. The affidavits shall authorize and empower the Commission or its representatives to examine, inspect, and/or copy the developer's escrow accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5719. Escrow Account Closing

A. Every developer shall notify the Commission of his intention to close an escrow account at least ten days prior to the intended closing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5721. Maintaining an Escrow Account

A. Upon revocation, suspension or lapse of registration, a developer shall nevertheless continue to maintain all escrow accounts until such time as all monies have been disbursed according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5723. Change of Address

A. Every registrant shall report in writing any change in business or residence address or telephone number to the Commission within ten days of the change. Such notification shall be by hand delivery or certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5725. Payment to Non-Registrants

A. Timeshare registrants, in accordance with the provisions of R.S. 37:1446.A, shall not offer or pay a fee or any other compensation of any kind to any unregistered person for the purpose of obtaining any timeshare solicitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

§5727. Developer Records

A. Every developer shall retain, for at least five years, readily available and properly indexed copies of all documents which in any way pertain to the sale or solicitation of timeshare interests in which he has acted as a developer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 25:

Interested parties are invited to submit written comments on the proposed regulations through November 20, 1999 at 4:30 p.m. to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA, 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Real Estate

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) associated with the proposed rules. The new language serves to define and interpret the existing rules and regulations to a better extent. The affected programs have all been previously implemented.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In addition to the general public, groups which may be directly affected by the proposed amendments include applicants for licensing, real estate licensees, registrants, certificate holders, and education providers and instructors. There are no estimated costs to these groups in that the majority of the language is considered "housekeeping" in nature. The amendments provide for technological advances (such as Internet advertising and distance learning) and are designed to ensure that participants in Louisiana Real Estate Commission programs maintain a level of skill, knowledge and competency which will ultimately benefit the general public. Applicants whose pre-licensing course work cannot be considered for full credit because of the time frame within which it was completed may have to complete additional credit hours. Cost to the applicant, if any, will be determined by the number of credit hours which must be obtained. Applicants who fail to pass a licensing examination within one year of the initial examination date will become ineligible for testing for a period of six months. This may have an effect on employment opportunities; however, there is no way to estimate the effect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant net effect in that all affected persons are treated equally.

Julius C. Willie
Executive Director
9910#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators

Louisiana Educational Assessment Program (LEAP)
Alternate Assessment Participation Criteria
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to the Addendum in Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). LEAP (Louisiana Education Assessment Program) is comprised of multiple components, including the LEAP Alternate Assessment. LEAP Alternate

Assessment Participation Criteria is to be used by Individual Education Program (IEP) teams in documenting that a student meets the criteria for participation in LEAP Alternate Assessment. This document ensures that participation in LEAP Alternate Assessment is limited to those students for whom the alternate assessment is designed.

The LEAP Alternate Assessment Participation Criteria is designed to meet the requirement presented in the Regulations for the Individuals with Disabilities Education Act of 1997, Section 300.138 (b)(1), that the State or LEAP develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs.

The reauthorization of the Individuals with Disabilities Education Act of 1997, Section 612 (a)(17)(A) requires that states conduct alternate assessments for those children who cannot participate in state- and district-wide assessment programs. R.S. 17:24.4 (F)(4) of Bill No. 251 enacted by the Legislature of Louisiana requires that alternate assessments (LEAP Alternate Assessment) be administered to certain students with disabilities who meet specific criteria developed by the Department of Education.

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

Bulletin 741—Louisiana Handbook for School Administrators

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), Amended by the Board of Elementary and Secondary Education in LR 23:560, 709, 1644 (May, June December 1997); LR 24:1495, 1085, 1896 (June, August, October 1998), LR 25:

Standard 1.009.03 Procedural Block

Louisiana Educational Assessment Program

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

LEAP Alternate Assessment Participation Criteria shall be used by Individual Education Program (IEP) teams to document that a student meets the criteria to participate in LEAP Alternate Assessment.

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.

Refer to R.S. 17:24.4

School Level, Proposed Policy

**Standard 2.009.03 Procedural Block
Louisiana Educational Assessment Program**

Schools, as part of the LEAP Alternate Assessment, shall ensure that student participation is documented on the LEAP Alternate Assessment Participation Criteria form as approved by the SBESE.

Refer to R.S. 17:24.4

Standard 3.087.11 Procedural Block Assessment

Schools, as part of the LEAP Alternate Assessment, shall ensure that student participation is documented on the LEAP Alternate Assessment Participation Criteria form as approved by the SBESE.

Refer to R.S. 17:24.4

Leap Alternate Assessment Participation Criteria

Student _____ DOB _____ School _____ I.D.# _____

A student eligible for participation in LEAP Alternate Assessment is one whose IEP reflects significant modifications of the general education curriculum with an emphasis on functional and life skills. A student participating in LEAP Alternate Assessment is progressing toward a Certificate of Achievement. To be eligible for participation in alternate assessment, the response to each of the statements below must be "Agree."

Circle "Agree" or "Disagree" for each item:

- Agree Disagree The student cannot address the content assessed in statewide assessments, even with extensive accommodations
- Agree Disagree The results of the statewide large-scale assessments will not provide or have not provided an accurate assessment of the student's progress in the student's educational program.
- Agree Disagree The student requires extensive instruction in multiple settings to acquire, maintain, and generalize skills necessary for application in school, work, home, and community environments.
- Agree Disagree Current longitudinal data (e.g., classroom observations, task analyses, progress on IEP objectives, evaluation, and parental information) indicate the student should participate in alternate assessment.
- Agree Disagree The student's demonstrated academic/cognitive ability limits his/her capability to complete the FULL requirements of the general education curriculum.
- Agree Disagree The decision for LEAP Alternate Assessment is not solely based on the student's disability according to Bulletin 1508.
- Agree Disagree The decision for LEAP Alternate Assessment is not

solely based on the student's visual and/or auditory disability

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on the student's emotional-behavioral disability.

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on the student's physical and/or motor disability.

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on the student's learning disability.

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on excessive or extended absences.

Agree Disagree The decision for LEAP Alternate Assessment is not solely based on social, cultural, and/or economic differences.

Agree Disagree The decision for LEAP Alternate Assessment is an IEP Committee decision, rather than an administrative decision.

Committee Decision: _____ is eligible for participation in LEAP Alternate Assessment.

Committee Decision: _____ is not eligible for participation in LEAP Alternate Assessment.

IEP Participants (Signatures) Date: _____

Name/Position Name/Position

Name/Position Name/Position

Name/Position Name/Position

Revised July 22, 1999

Interested persons may submit written comments until 4:30 p.m., December 7, 1999, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Louisiana Educational
Assessment Program (LEAP) Alternate Assessment
Participation Criteria**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Estimated costs for the LEAP Alternate Assessment are \$241,350 for Fiscal Year 1999-00, \$853,580 for Fiscal Year 2000-01, and \$602,740 for Fiscal Year 2001-02. These are the approximate costs that will be incurred for the Field Test (1999-00) and implementation of the Operational Form (2000-01 and 2001-02) of LEAP Alternate Assessment.

The LEAP Alternate Assessment Participation Criteria is a form used by Individual Education Program teams to determine if a student is eligible to participate in the alternate assessment. Costs of reproducing and administering the LEAP Alternate Assessment Participation Criteria are negligible.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no effect on costs or benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9910#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

6. An Elementary Principal who has been a district finalist in the Principal of the Year Program within the last three years

7. An Elementary Teacher who has been a district finalist in the Teacher of the Year Program within the last three years

8. A Representative of Non-Public Schools

9. A Representative of Organized Labor

10. A Representative of Business

11. Public LEA Superintendent

Interested persons may submit written comments until 4:30 p.m., December 9, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 921—Policy and Procedure Manual for the Louisiana Quality Education Support Fund—8(g)
(LAC 28:I.921)

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 921 referenced in LAC 28:I.921.A, promulgated by the Board of Elementary and Secondary Education in LR 14:10 (January 1988). The proposed amendment amends the appointment categories of the 8(g) Advisory Council, referenced in Section IV, Part 100, Section 101 of the Bulletin.

**Title 28
EDUCATION**

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

§921. Quality Education Support Fund—8(g)

A. Bulletin 921

AUTHORITY NOTE: Promulgated by the Board of Elementary and Secondary Education in accordance with 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 14:10 (January 1988), amended LR 25:

Categories 1 - 11

1. District Supervisor who has served as a Project Administrator of one or more 8(g) projects that received an evaluation score of 28 or higher

2. 8(g) Program Evaluator with a minimum of three years experience with 8(g) projects

3. LEA System Grant Writer with a minimum of three years experience

4. A Secondary Principal who has been a district finalist in the Principal of the Year Program within the last three years

5. A Secondary Teacher who has been a district finalist in the Teacher of the Year Program within in the last three years

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 921—Policy and Procedure
Manual for the Louisiana Quality Education Support
Fund—8(g)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this rule.

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 nongovernmental units associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment associated with this rule.

Weegie Peabody
Executive Director
9910#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1903—Education of Dyslexic Students
(LAC 28:XXXV.Chapters 1-13)

[Editor's Note: Bulletin 1903 was adopted in LR 18:1249 (November 1992), amended LR 19:1417 (November 1993), LR 20:284 (March 1994), and LR 20:647 (June 1994). This present revision is being published in codified form, hence historical notes wil reflect a history, by section, from this time forward.]

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 1903 promulgated in LR 18:1249 (November 1992), referenced in LAC 28:J.902.A. The Bulletin is revised to incorporate both R.S. 17:7(11) and R.S. 17:7(11)(B) into one document and clarifies language so that school districts will find it easier to use. The present Bulletin is being repealed and promulgated as a codified document.

**Title 28
EDUCATION**

**Part XXXV. Regulations and Guidelines for the
Implementation of the Louisiana Law for the Education
of Dyslexic Students**

Chapter 1. Forward

§101. Forward

A. It is vital that our State provide an opportunity for all students to reach their maximum potential. This publication represents a major step forward in the implementation of R.S. 17:7(11), Louisiana's law for identification and services within the regular education program for students demonstrating characteristics of dyslexia.

B. Act 854 of the 1990 Regular Legislative Session [R.S. 17:7(11)] requires that the State Board of Elementary and Secondary Education:

1. provide for the screening and assessment of certain students for characteristics of dyslexia and related disorders;
2. that the Board provide duties for local school boards;
3. that the Board provide for the remediation of any student determined to have characteristics of dyslexia or a related disorder;
4. that the Board provide definitions;
5. and that the Board provide guidelines and standards for the implementation of the law.

C. Many of the characteristics associated with dyslexia are found in children with other specific learning disabilities or with speech and spoken language disorders. Some of the characteristics may be present in certain young children in the course of normal development. When these characteristics are not age-appropriate and interfere with learning, they may be symptoms of a language or learning disorder, including dyslexia, and the child may need specialized instruction in academic or related areas.

D. To fulfill the mandates of this law, in 1990, the Louisiana Department of Education convened planning groups comprised of parents, educators, and related professional and parent association representatives. Numerous areas of education were represented, including Elementary and Secondary Education, Student Services, Chapter 1, Pupil Accountability, Teacher Certification, and Special Education. This planning group reviewed current research findings and evaluation procedures as well as programs used in other states and districts. As a result, this planning group developed Bulletin 1903 that included a five-step process for the evaluation and determination of programs for students suspected of having this disability.

E. This bulletin was reviewed and revised in 1993 to reflect changes made in the law. A third review was completed in 1999 by a group which included parents, educational diagnosticians, school psychologists, speech/language pathologists, reading specialists, and other educators in regular and special education.

F. Louisiana is committed to providing a free and appropriate education for all students, regardless of the severity or type of disability. The State Board of Elementary and Secondary Education and the Department of Education are grateful to those persons who have worked so diligently to formulate these regulations and guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

**§103. State Board of Elementary and Secondary
Education**

- A. Ms. Glenny Lee Buquet, President
Third BESE District
- B. Mr. Clifford Baker, Vice President
Eighth BESE District
- C. Mr. Keith Johnson, Secretary-Treasurer
Second BESE District
- D. Ms. Donna Contois
First BESE District
- E. Mr. Walter Lee
Fourth BESE District
- F. Dr. James Stafford
Fifth BESE District
- G. Dr. Richard Musemeche
Sixth BESE District
- H. Mr. John Bertrand
Seventh BESE District
- I. Mr. Gerald Dill
Member-at-Large
- J. Ms. Leslie Jacobs
Member-at-Large
- K. Mr. Paul Pastorek
Member-at-Large

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 3. General Provisions

**§301. The Louisiana Law for the Education of
Dyslexic Students**

A. Added by Acts 1990, No. 854. 1, amended by Acts 1992, No. 1120. 1, effective July 14, 1992. To enact R.S. 17:7(11), relative to the duties, functions, and responsibilities of the State Board of Elementary and Secondary Education; to require the State Board of Elementary and Secondary Education to provide for testing of certain students for dyslexia and related disorders; to provide duties for local school boards: to provide remediation of any student determined to have dyslexia or a related disorder; to provide definitions; to provide guide lines and standards: and to provide for related matters. Be it enacted by the legislature of Louisiana:

1. Section 1. R.S. 17:7(11) is hereby enacted to read as follows: §7. Duties, functions, and responsibilities of the board.

2. In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

a. adopt and provide for the implementation of a program under which students enrolled or enrolling in public schools in this state are tested for dyslexia and related

disorders as may be necessary. Such program shall conform to the criteria and minimum standards established by the Council for Learning Disabilities. The program shall provide that upon the request of a parent, student, school nurse, classroom teacher, or other school personnel who has reason to believe that a student has a need to be tested for dyslexia, such student shall be referred to the school building level committee for review and referral to pupil appraisal for appropriate services;

b. in accordance with the program adopted by the board, the city and parish school boards shall provide remediation for children with dyslexia or related disorders in an appropriate multi-sensory, intensive phonetic, synthetic to analytic phonics, linguistic, meaning based, systematic, language-based regular education program. For those students who are not dyslexic and who do not qualify for special education services, other appropriate programs shall be offered to remediate their particular physical or educational disorders;

c. the State Department of Education, by not later than January 31, 1991, shall make recommendations to the board for the delivery and funding of services to students who are identified as dyslexic, but do not qualify for services under the criteria of eligibility of Bulletin 1508, the Pupil Appraisal Handbook;

d. for the purposes of this Paragraph:

i. *Dyslexia*—shall be defined as a language processing disorder which may be manifested by difficulty processing expressive or receptive, oral or written, language despite adequate intelligence, educational exposure, and cultural opportunity. Specific manifestations may occur in one or more areas, including difficulty with the alphabet, reading, comprehension, writing, and spelling.

ii. *Related Disorders*—shall include disorders similar to or related to dyslexia such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§303. Preface

A. Federal Requirements and Eligibility for Services

1. The Department of Education and Local Education Agencies (LEAS) have an obligation to provide for the evaluation of a child suspected of having a disability. The evaluation shall determine the child's need for specialized instruction and related services. Children with disabilities including dyslexia may qualify for educational and related services under Individuals with Disabilities Education Act (IDEA Public Law 105-17) and/or under the Section 504 of the Rehabilitation Act of 1973.

2. Federal laws require that recipients that operate a public elementary or secondary education program address the needs of children considered "disabled persons" as adequately as they address the needs of non-disabled persons. No disabled person shall, on the basis of the disability, be excluded from participation in, or denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

3. Both federal laws require that an LEA provide a free, appropriate public education to each qualified child with a disability regardless of the nature or severity of the person's disability. A free, appropriate public education, under Section 504, consists of regular or special education and related aids and services designed to meet the individual educational needs as adequately as the needs of non-disabled persons are met and are based on adherence to the regulatory requirements for educational setting, evaluation and placement, and procedural safeguards. A student may be disabled within the meaning of Section 504 and therefore entitled to regular or specialized education and related aids and services, even though the student may not be eligible for special education and services under IDEA.

B. State Requirements and Eligibility for Services

1. Act 854 of the 1990 Regular Legislative Session [R.S. 17:7(11)] defines *dyslexia* as a "language processing disorder which may be manifested by difficulty processing expressive or receptive, oral or written language despite adequate intelligence, educational exposure, and cultural opportunity." Specific manifestations may occur in one or more areas, including difficulty with the alphabet, reading, comprehension, writing, and spelling.

2. The law also identifies *related disorders* as "disorders similar to or related to dyslexia such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia and developmental spelling disability."

3. The law requires that the State Board of Elementary and Secondary Education provide for testing of certain students for characteristics of dyslexia and related disorders, that the Board provide duties for local school boards, that the Board provide for remediation of any student determined to have dyslexia or a related disorder, that the Board provide definitions, and that the Board provide guidelines and standards for the implementation of the law, and to provide for related matters.

4. Local Education Agencies must adhere to the process contained within this Bulletin for assessment and placement for students suspected of having characteristics of dyslexia. Adherence to these guidelines will provide for consistency in the implementation of these laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 5. Implementation of R.S. 17:7(11)

§501. Guidelines for the Implementation of RS 17:7

(11)

A. Introduction to Guidelines

1. This copy of the *Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students* [R.S. 17:7(11)] is provided so that LEAs will have a reference for understanding the ramifications, regulations, and school system guidelines for identifying and providing appropriate educational opportunities for the students of Louisiana with characteristics of dyslexia.

2. The *Guide* is being distributed to all local school systems and is available from the Louisiana Department of Education. It was prepared with the following principal in mind.

a. Though students with characteristics of dyslexia have unique and often challenging educational needs, they also have potential to make important contributions to our society. Their special learning needs should and must be addressed by the public school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§503. School System and School Building Responsibilities

A. According to R. S. 17:7(11), each school system and each school building within a system has specific responsibilities for the implementation of the law.

1. School System Responsibilities

a. To create and adopt school system policies and procedures for implementation of the law in accordance with *Bulletin 741*.

b. To assure ongoing public notice regarding the system's obligations toward students with characteristics of dyslexia.

c. To provide informational training about dyslexia for system representatives, teachers, and administrators on an annual basis.

d. To assure that each school within the system selects personnel to oversee the assessment process for determination of program eligibility.

e. To assure that programs for students with characteristics of dyslexia meet the state criteria and follow the guidelines.

f. To assure that each school within the system follows the regulations for implementation of the law by providing for the academic needs of students identified as having characteristics of dyslexia or related disorders.

2. School Building Responsibilities

a. To select a school building level committee knowledgeable about the student and the persons who will oversee the assessment and programming process.

b. To select a chairperson of the committee who will be responsible for gathering information, maintaining records, calling meetings, monitoring progress, disseminating information to the committee, teachers and parents, and overseeing all other aspects of implementation of R. S. 17:7(11);

c. To assure that teachers are aware of the state regulations regarding dyslexia, the characteristics of dyslexia, and the school system's policies for implementation of the assessment and programming process;

d. To provide training so that teachers are knowledgeable about and can implement specialized instructional interventions and strategies for students with characteristics of dyslexia within the regular classroom;

e. To plan for and implement a program for students identified as demonstrating characteristics of dyslexia according to the assessment and programming process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§505. Requirements for Implementation of R. S. 17:7(11)

A. Since the fall of 1992 and thereafter, school systems are required to have implemented all aspects of R.S.

17:7(11). According to the revised Bulletin 1903, each LEA will:

1. continue public notice regarding the system's obligations toward students with characteristics of dyslexia and give notice of the school system's specific implementation plan;

2. will ensure that teachers and administrators are aware of the state regulations regarding dyslexia, the characteristics of dyslexia, and the school system's policies for implementation of the law;

3. provide training so that teachers are knowledgeable about and can implement Multisensory Structured Language Programs and instruction for students with characteristics of dyslexia within the classroom;

4. implement a program for students identified as having characteristics of dyslexia.

B. Factors which may contribute to the characteristics of dyslexia are as follows:

1. family history of similar problems;

2. late in learning to talk;

3. receptive language skills are typically better than expressive;

4. difficulty in processing both oral and written language. May also affect foreign language acquisition;

5. difficulty in learning to write the alphabet correctly in sequence;

6. cramped or illegible handwriting;

7. late in establishing preferred hand for writing;

8. late in learning right and left and other directionality components: e.g., up-down, front-behind, over-under, east-west and others;

9. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;

10. reversal of letters or sequences of letters that are not developmentally appropriate;

11. difficulty in learning to decode and comprehend age appropriate written information;

12. slow reading speed;

13. difficulty learning sound-letter correspondence;

14. difficulty in learning and remembering printed words;

15. repeated erratic spelling errors;

16. error proneness in reading;

17. word substitutions in oral reading;

18. difficulty identifying, blending, segmenting and manipulating phonemes; and

19. losing ground on achievement or intelligence tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§507. Decision Process for Dyslexia Intervention, Identification, and Placement

A. SBLC Data Gathering

B. SBLC Intervention Options/Remedial Strategies

1. Assess student for characteristics of dyslexia.

2. Continuation of specialized instructional interventions and strategies that were successful. Documentation shall remain in the student's cumulative records. The assessment process for dyslexia may be terminated at this point if the Committee, including the parent, is in agreement.

3. If a student is suspected of having a disabling condition under the IDEA, the student shall be referred for an individual evaluation to determine eligibility for special educational services.

4. Determine that the child's needs can be met in the regular classroom without further strategies interventions, for the present time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 7. Assessment

§701. Assessment Procedures

A. Request for Assistance from the school Building Level Committee

1. A written request may be made to the school building level committee for assistance in addressing a student's educational progress if school personnel (principal, guidance counselor, teacher, school nurse, etc.), the parent/guardian, community agency personnel or the student has reason to believe that the student is *consistently struggling or having difficulty making expected progress*. This request for assistance documents the beginning of the 60 operational day time line allowed to complete an assessment for characteristics of dyslexia and program implementation, if deemed necessary.

B. Formation of a Committee of Knowledgeable Persons About the Student and Dyslexia

1. Each campus must establish a committee of knowledgeable persons to conduct referral and assessment activities. The group shall be referred to as the Committee.

2. The committee must be comprised of at least these members:

- a. the student's teacher; and
- b. two other professional persons knowledgeable about the student and/or the suspected condition in the individual school setting, including the following:
 - i. reading specialist;
 - ii. guidance counselor;
 - iii. speech/language pathologist;
 - iv. curriculum specialist in language arts;
 - v. teachers certified in reading, language arts, special education, elementary education, or secondary education;
 - vi. certified school psychologist;
 - vii. educational diagnostician;
 - viii. occupational therapist;
 - ix. screening specialists, [according to *Regulations for the Implementation of Act 1120 R.S. 17:392.1 & 392.3*]; and
 - x. school social worker.

C. Data Gathering and Review

1. Upon request, the first action by the Committee shall be to gather data about the student and to establish a profile of the total child from the standpoint of school and home.

2. Data gathered will include, but not be limited to, the following:

- a. health information;
 - i. vision and hearing screening (current within 24 months); and
 - ii. medical/health history;
- b. academic, cognitive, and behavioral information;

- i. cumulative record review;
- ii. academic progress reports;
- iii. teacher reports of aptitude, behavior, and concerns;
- iv. CRT/NRT and/or any other standardized test scores;
- v. informal testing, such as curriculum-based assessment;
- vi. types of interventions used in the regular program;
- vii. samples of the student's work; and
- viii. achievement motivation information;
- c. speech and language information (including assessment of phonological awareness);
- d. additional information from the parents and other sources, (e.g., the student's need for extensive outside help and the extent of student effort, etc.);
- e. documentation of the use of pre-referral specialized instructional interventions and strategies used with the student;

D. Instructional Interventions and Strategies

Note: If extensive specialized instructional interventions and strategies have been implemented and documented, the Committee may proceed to the choice of options below.

1. Additional specialized instructional interventions and strategies to be implemented in the education setting should be recommended by the Committee for the student.

2. Intervention results shall be recorded and reported to the Committee. The Committee will choose one of the four options below:

- a. assess student for characteristics of dyslexia; or
- b. continuation of specialized instructional interventions and strategies that were successful. Documentation shall remain in the student's cumulative records. The assessment process for dyslexia may be terminated at this point if the committee, including the parent, is in agreement; or
- c. if a student is suspected of having a disabling condition under the IDEA, the student shall be referred for an individual evaluation to determine eligibility for special educational services; or
- d. determine that the child's needs can be met in the regular classroom without further strategies or interventions, for the present time.

Note: Because the characteristics of dyslexia may not be currently evident and may emerge at a later date, this decision-making process may be repeated based on a student's need.

E. Procedural Safeguards For Assessment

1. An assessment plan shall be developed by the Committee. Documentation shall be kept on the assessment plan and subsequent activities.

2. The parent shall be contacted and informed about the assessment. Informed consent (permission) for assessment is required, and all rights of the parents must be explained.

3. The assessment procedures shall be conducted by appropriately trained local education agency (LEA) personnel as described in the assessment plan.

4. The assessment shall include multi-source data and shall be conducted with valid and reliable instruments. Tests and other assessment materials must have been validated for the specific purpose for which they are used and must be administered in conformance with the instructions provided by their producer [34 CFR 104.35 (b) 1-3].

5. Tests and other assessment materials must include those tailored to assess specific areas of educational need, not those designed merely to provide a single intelligence quotient.

6. Tests shall be selected and administered to ensure that the results accurately reflect the student's aptitude or achievement level rather than reflect only the student's impaired skills (except where those skills are the factors the test purports to measure). Careful attention must be given to test selection and administration for students with impaired sensory, manual, or speaking skills.

7. Tests and other assessment procedures and materials shall be used in such a manner as to be free of racial, cultural, language, or sex bias.

8. A written notice of findings, signed by the Committee, shall be given to the parents and a copy shall be maintained in the student's cumulative folder.

9. A referral to Pupil Appraisal Services is required if, during the assessment process, disabling conditions (including a specific learning disability such as dyslexia) under IDEA is suspected.

F. Required Components of the Assessment

1. A review of data gathered and relevant information provided from other sources.

Note: Any private evaluation presented by the parent must be considered by the school system's pupil appraisal staff for review and interpretation within 10 *operational days*.

2. A review/assessment of cognitive ability.

3. An Assessment of Language Skills

a. Phonological awareness.

b. Receptive and expressive language.

i. Listening.

ii. Oral expression (word finding, sequencing,

etc.).

iii. Written expression (spelling, mechanics, coherence, etc.).

iv. Dysgraphia.

v. Reading (real word and non word (nonsense word) word attack skills, reading comprehension, and reading rate).

c. An assessment of mathematics skills.

i. Computation.

ii. Word problems.

d. A review/assessment of general behavioral characteristics.

i. Attention span.

ii. Self-esteem.

iii. Social skills.

iv. Other.

e. A family interview.

i. Family history (including that of the student) of reading or other language-based learning difficulties such as dyslexia.

ii. Extent of assistance provided to the student outside of school.

iii. Extraordinary effort of the student.

G. Determination of Program Eligibility

1. A student shall be determined to have characteristics of dyslexia if the following criteria are met.

a. The student has adequate intelligence demonstrated through performance in the classroom appropriate for the student's age, or on standardized measures of cognitive ability.

b. The student demonstrates difficulties in areas which are often unexpected in relation to age, previous instruction, and other cognitive and academic abilities. The student has had extensive remediation/assistance in order to maintain grades. However, deficits were evident prior to remediation. The student must demonstrate at least 5 out of 6 of the following characteristics:

i. lack of or limited phonological awareness;

ii. common error patterns in reading and learning behaviors, such as:

(a). reading, decoding inaccuracies in single words and nonsense words (e.g., detached syllables);

(b). slow reading rate;

(c). omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);

(d). reduced awareness of patterns in words;

(e). difficulties generalizing word and language patterns;

iii. language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities;

iv. errors in spontaneous spelling;

v. spontaneous written language is very simple or poor in comparison to spoken *language*; and

vi. spontaneous written language shows poor organization and mechanics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 9. Multisensory Structured Language Regular Education Program

§901. Program

A. Program Criteria

Note: The LEA shall be responsible for ensuring that the program provided for students who have been determined to have characteristics of dyslexia meets the criteria of R.S. 17:7(11), the Louisiana Dyslexia law.

B. The Multisensory Structured Language Program(s) shall consist of specific program content and a delivery system as described below.

1. Content Components

a. *Language-Based*—a program that provides instruction that integrates all aspects of language:

i. receptive (listening and reading);

ii. expressive [oral expression (word finding, sequencing), written expression (spelling, mechanics, coherence)];

iii. handwriting.

b. *Phonological Awareness*—an understanding that words are made up of individual speech sounds and that those sounds can be manipulated.

i. Rhyming.

ii. Recognition of initial, final and medial sounds.

iii. Recognition of vowel sounds.

iv. Recognition and identification of the number of syllables in a word.

v. Sound blending of phonemes (sounds) in words and detached syllables.

vi. Phoneme segmentation of real words and detached syllables.

vii. Phoneme manipulation.

c. *Phonetic*—the system by which symbols represent sounds in an alphabetic writing system.

i. Accurately pronouncing each phoneme represented by a given grapheme (symbol to sound).

ii. Writing the graphemes that represent each given phoneme (sound to symbol).

d. *Syllable Instruction*—instruction in kinds of syllables and their application to reading. Syllable - a word or part of a word which contains one sounded vowel.

e. *Linguistics*—the science of language, including phonology, morphology, syntax and semantics. The study of the structure of a language and its relationship to other languages.

f. *Meaning Based*—instruction provided in words and sentences to extract meaning in addition to teaching isolated letter-sound correspondence.

i. Instruction in morphology which includes identification of morphemes and their functional use in written and spoken words.

ii. Instruction of syntax to include sentence construction, combining, and expansion in both narrative and expository text.

iii. Instruction of semantics to include vocabulary acquisition, idioms, figurative language.

iv. Instruction in comprehension of narrative and expository text.

g. *Instruction in Reading Fluency*—the accuracy; appropriate use of pitch, juncture and stress; text phrasing; and rate at which one reads.

i. Provides for substantial practice and continual application of decoding and word recognition to work toward automaticity.

ii. Provides opportunities for reading large amounts of text

(a). At the student's independent reading, level (with 95% accuracy).

(b). Which provides specific practice in skills being learned.

h. *Phonics*—refers to instructional practices that emphasize how spellings are related to speech sounds in systematic ways.

C. Instructional Methodology for Students with Characteristics of Dyslexia (Delivery of Instructional Content)

1. Direct instruction with student-teacher interaction and diagnostic teaching

2. *Simultaneous Multisensory*—an instructional approach that uses a simultaneous combination of internal learning pathways, visual, auditory, kinesthetic, and tactile, to achieve proficiency in language processing.

3. *Synthetic to Analytic Phonics*—teaches students the sounds of the letters first and then combines or blends these sounds to create words. Analytic phonics uses prior knowledge of letters and their corresponding sounds to decode and form new words.

D. Synthetic phonics teaches students the sounds of the letter first and then combines or blends these sounds to create words.

1. Systematic. Material is organized and taught in a way that is logical and fits the nature of our language. It refers to the way sounds combine to form words and words combine to form sentences to represent knowledge. The ways are determined by a system of rules.

2. Sequential. The learner moves step by step, in order, from simple, well-learned material to that which is more complex, as he or she masters the necessary body of language skills.

3. Cumulative. Each step is incremental and based on those skills already learned.

4. Individualized. Teaching is planned to meet the differing needs of learners who are similar to each other, but no two exactly alike.

5. Automaticity of Performance. Fluent processing of information that requires little effort or attention as sight word recognition. Adequate practice with decodable text is to be provided for mastery of skills and applications of concepts.

E. Multisensory Structured Language Program Implementation

1. Multisensory Structured Language Programs are to be routinely provided within the regular school day, a minimum of 150 minutes per week.

a. Regular class placement with Multisensory Structured Language Programming

b. Out-of-class placement in a Multisensory Structured Language Program

c. Individual or small group instruction in a Multisensory Structured Language Program.

d. A combination of these options or any additional arrangements that may be developed by the Committee.

2. If a student is in a Multisensory Structured Language Program, according to R.S. 17:7(11) the Louisiana Dyslexia Law, grades should be derived from that program in lieu of the local program. Criteria for promotion must be described in the LEAs Pupil Progression Plan.

Note: If a parent or guardian or school system does not agree with the provision of services, contact the LEA 504/1903 Dyslexia Coordinator.

F. Evaluation Data and Review of Student Progress

1. Evaluation data shall be maintained on students enrolled in Multisensory Structured Language Programs.

2. A periodic review shall be made to determine the appropriateness of the program for the student. At a minimum, an annual review is required.

Chapter 11. Glossary

§1101. Terminology of the Bulletin

Accommodation—is any technique that alters the academic setting or environment. An accommodation generally does not change the information or amount of information learned. It enables students to show more accurately what they actually know.

Assessment—the act or process of gathering data in order to better understand the strengths and weaknesses of student learning as by observation, testing, interviews, etc.

Automaticity—fluent processing of information that requires little effort or attention, as sight word recognition.

Balanced Reading Approach—refers to the availability of a variety of programs which include phonology, phonemic awareness, phonics, syntax, morphology, fluency, and reading comprehension.

Constitutional Origin—relating to the origin of the dyslexic student's disability. The nature of the disability does not result from injury, but rather is of an inborn nature.

Developmental Auditory Imperception—difficulties in perceiving and using what is heard. The student may have

difficulty with auditory processing, auditory discrimination, and learning sound-symbol associations.

Dysgraphia—difficulty with producing written symbols, usually resulting in slow and poor quality handwriting.

Dyslexia—one of several distinct learning disabilities. It is a specific language-based disorder of constitutional origin characterized by difficulties in single word decoding, usually reflecting insufficient phonological processing abilities. These difficulties in single word decoding are often unexpected in relation to age and other cognitive and academic abilities; they are not the result of generalized developmental disability or sensory impairment. Dyslexia is manifested by variable difficulty with different forms of language, often including, in addition to problems in reading, a conspicuous problem with acquiring proficiency in writing and spelling. (NICHD)

Dysphasia—severe difficulty with expressive and receptive oral language.

Evaluation—the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

Expressive Language—the act of conveying information through writing, speaking, or gesturing.

Fluency—the clear, easy, written or spoken expression of ideas.

Grapheme (Sound)—a written or printed representation of a phoneme (e.g., t, l, z).

I D E A—Individuals with Disabilities Education Act (Public Law 105-17); the special education law.

Intensive Phonics—a combination of analytic phonics and synthetic phonics. *Analytic phonics* uses prior knowledge of letters and their corresponding sounds to form new words. *Synthetic phonics* teaches students the sounds of the letters first and then combines or blends these sounds to create words.

Modification—is any technique that alters the work required in some way that makes it different from the work required of other students in the same class. A modification generally does change the work format or amount of work required of students. It encourages and facilitates academic success.

Morpheme—the smallest unit of meaning in language (e.g., s, ed. play).

Multisensory Structured Language Program—the type of program that is mandated by R.S. 17:7(11), the Louisiana Law for the Education of Dyslexic Students, or students found to have characteristics of dyslexia (refer to page 7 for specific program components).

Phoneme—the smallest unit of sound capable of signaling semantic distinction or meaning (e.g., /sh/-/l/-/p/).

Phoneme Manipulation—dropping, adding, or moving phonemes to create new words or detached syllables.

Phoneme Segmentation—the ability to separately articulate the sounds of a spoken word in order.

Phonemic Awareness—the awareness that spoken words or syllables can be divided into a sequence of phonemes. Phonemic awareness pertains to the rule system and is a sub-category of phonological awareness.

Phonics—an approach to the teaching of reading and spelling that stresses symbol-sound relationships, especially in beginning reading instruction.

Phonological Awareness—an understanding that words are made up of individual speech sounds as distinct from their meaning and that those sounds can be manipulated.

Phonology—the study of the speech sounds of a language and their underlying rules of usage.

Procedural Safeguards—a system of providing parents or guardians with procedural safeguards:

1. notice of their rights;
2. an opportunity to review relevant records;
3. an impartial hearing - parents or guardians must be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of persons with disabling conditions; and
4. a review procedure, if parents disagree with the hearing decision.

R.S. 17:7(11)—The Louisiana Law for the Education of Dyslexic Students.

Receptive Language—the act of understanding information by listening, reading, or gesturing.

Screening—a brief examination which determines the presence or absence of an important impediment to learning.

Section 504 of the Rehabilitation Act of 1973—federal law found at 29 U.S.C. Secs.706(7), 794, 794a, 794b. "No otherwise qualified disabled individual...shall, solely by the reason of his/her handicap, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

Semantics—the study of meaning in language.

Syntax—the study of how sentences are formed and of the grammatical rules that govern their formation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Chapter 13. Regulations for the Implementation of R.S. 17:392.1 and 392.3

§1301. Part VI-A. Screening and Intervention for School Success

A. R.S. 392.1. Screening and Intervention; Purpose; Applicability; City and Parish School System, Duties

1. R.S. 392.1. The legislature acknowledges that identification of and adjustment to the individual characteristics that affect a child's learning style will improve a child's opportunity to succeed in school. Some of the characteristics that children bring to school with them are products of learning disorders and/or social or emotional risk factors that, if identified, acknowledged, and addressed can be mitigated or alleviated.

2. It is the purpose of this Part to intervene with regard to any impediments to a successful school experience that exist for children as early as possible in their schooling and to bring to bear all resources that can be made available in a school setting to address any difficulty a child may have and make it possible for him to begin school ready and able to learn.

3. Every child in public school in grades kindergarten through third shall be screened, at least once, for the existence of impediments to a successful school experience. No child shall be screened if his parent or tutor objects to such screening.

4. Such impediments shall include:
 - a. dyslexia and related disorders, as defined in R.S. 17:7(11);
 - b. attention deficit disorder;
 - c. social and environmental factors that put a child "at risk" as that term has been defined by the State Department of Education, pursuant to R.S. 17:7.5(A).

5. In doing such screenings, a priority shall be placed on screening any student referred for screening, pursuant to R.S. 17:7(11); however, if a child is so referred, a screening for all other impediments shall be done at the same time.

6. Screenings as required by R.S. 392.1 shall have one or more of the following results:
 - a. no indication of need for services;
 - b. indication of need for services to ameliorate the effect of a possible learning disorder;
 - c. indication of need for assistance to ameliorate the effect of a possible at-risk factor;
 - d. referral for further evaluation for the existence of eligibility for the receipt of special education services;

7. Children in need of services and/or assistance shall have it provided to them. Services for disorders shall be provided in accordance with R.S. 17:7(11). Children who are referred for further evaluation shall be provided further evaluation in accordance with Chapter 8 of this Title. Children who are in need of assistance shall have it provided to them in accordance with this Part.

8. The screenings required by R.S. 392.1 shall be done directly by elementary guidance counselors, pupil appraisal personnel, teachers, or any other professional employees of the school system who have been appropriately trained, all of whom shall operate as advocates for the children identified as needing services or assistance pursuant to this Part. No screenings shall be done by persons who have not been trained to do such screenings, consistent with the requirements established for such training by the State Board of Elementary and Secondary Education.

B. R.S. 392.3. Implementation

1. It is the intention of the Legislature that the costs relative to the implementation of the provisions of this Section shall be covered by funds appropriated by the state. Such funds shall include those appropriated pursuant to the Minimum Foundation Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§1303. Introduction

A. Guidance Counselors/Screening Specialists—Qualifications and Training Requirements

1. Act 1 120 of the 1992 Regular Legislative Session [R.S. 17:392.1 & 392.3] requires Local Educational Agencies to intervene as early as possible in every child's school career to reduce any impediments to a successful school experience.

2. The State Board of Elementary and Secondary Education at its January 1995 meeting adopted regulations for the implementation of R.S. 17:392.1 & 392.3. Qualifications and training requirements of guidance counselors/screening specialists were adopted pursuant to this law.

3. The main points of this law are as follows:

- a. every child in grades K-3 will be screened, at least once, for dyslexia and related disorders, ADD/ADHD, and social and emotional "at risk" factors;
- b. no child shall be screened if his parent(s) or tutor objects to such screening;
- c. screening shall be conducted by elementary school guidance counselors, pupil appraisal personnel, teachers, or any other trained employee of the school;
- d. screening shall not be conducted by personnel who have not been trained consistent with requirements established by the State Board of Elementary and Secondary Education;
- e. each city/parish school system shall employ at least one guidance counselor and/or screening specialist for every 800 students in the elementary school;
- f. the costs of implementation shall be provided through the N4FP.

Note: LEAs that can document completed training as specified in the law prior to acceptance of this document will be considered to have met these requirements.

B. Qualifications for Screening Specialist/Guidance Counselors Pursuant to Act 1120 of the 1992 Legislative Session

1. Guidance Counselors

- a. certification in elementary guidance;
- b. ability to work with teachers and other professionals who serve as advocates for children.

2. Classroom Teachers

- a. certification in elementary grades or special education;
- b. ability to work with teachers and other professionals to serve as advocates for children;
- c. a minimum of three years classroom experience.

3. Pupil Appraisal Personnel and/or Other Professionals

- a. certification or licensure as appropriate and approved by the State Department of Education;
- b. ability to work with teachers and other professionals who serve as advocates for children.

4. Numbers 2 and 3 will be called "Screening Specialists"—teachers, pupil appraisal personnel under their supervision or by such other professional employees of the school system as have been appropriately trained, all of whom shall be included within the term "guidance counselor" as used in this Part.

C. Training Requirements

1. A minimum of 18 clock hours of training in the following is required.

- a. Identification and knowledge of the following - (4 hours)
 - i. Characteristics of ADHD.
 - ii. Characteristics of Dyslexia and related disorders pursuant to R.S. 17:7 (11).
 - iii. Characteristics of social and emotional "at risk" factors.
- b. Use of appropriate screening instruments - (6 hours)
 - i. Kindergarten Screening Instrument(s) - State approved/to determine developmental strengths and needs.
 - ii. ADHD Checklist.
 - iii. Social/emotional factors "at risk" checklist.
 - iv. Informal reading/language inventories.

- v. Rapid automatic naming tests
- vi. Written language samples.
- vii. Informal mathematical assessment.
- viii. Norm-reference tests.
- c. Administration and interpretation of LEA selected screening instruments.
 - i. Training of personnel to administer instruments.
 - ii. Interpret screening results.
- d. Operation and procedures of School Building Level Committee - (3 hours)
 - i. Membership.
 - ii. Referral process.
 - iii. Interventions in the classroom.
 - iv. Documentation.
 - v. Decision making process - 1903, 504, 1508 (if warranted).
 - e. Selection of appropriate classroom strategies, accommodations and modifications - (4 hours).
 - f. Child advocacy - (1 hour).

Note: The number of hours in each area has been documented. Re-training is not necessary if any previous training- can be documented within the last 3 years.

D. Characteristics Associated with Dyslexia and Related Disorders

1. Lack of or limited phonological awareness.
2. Common error patterns in reading and learning behaviors, such as:
 - a. reading decoding inaccuracies in single words and nonsense words (e.g., detached syllables);
 - b. slow reading rate;
 - c. omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);
 - d. reduced awareness of patterns in words;
 - e. difficulties generalizing word and language patterns.
3. Language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities.
4. Errors in spontaneous spelling.
5. Spontaneous written language is very simple or poor in comparison to spoken language.
6. Spontaneous written language shows poor organization and mechanics

Source: Regulations for the Implementation of the Louisiana Law for the Education of Dyslexic Students [R.S. 17:7(11)].
7. Additional factors which may contribute to the above characteristics:
 - a. family history of similar problems;
 - b. late in learning to talk;
 - c. receptive language skills are typically better than expressive;
 - d. difficulty in finding the "right" word when speaking;
 - e. difficulty in processing both oral and written language. May also affect foreign language acquisition;
 - f. difficulty in learning to write the alphabet correctly in sequence;
 - g. cramped or illegible handwriting;
 - h. late in establishing preferred hand for writing;
 - i. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west and others;

- j. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;
- k. reversal of letters or sequences of letters that are not developmentally appropriate;
 1. difficulty in learning to decode and comprehend age appropriate written information;
 - m. slow reading speed;
 - n. difficulty learning sound-letter correspondence;
 - o. difficulty in learning and remembering printed words;
 - p. repeated erratic spelling errors;
 - q. error proneness in reading;
 - r. word substitutions in oral reading;
 - s. difficulty identifying, blending, segmenting and manipulating phonemes;
 - t. losing ground on achievement or intelligence tests.

E. Characteristics of Attention Deficit Disorders

1. often fails to give close attention to details or makes careless mistakes in schoolwork, work, or other activities;
2. often has difficulty sustaining attention in tasks or play activities;
3. often does not seem to listen when spoken to directly;
4. often does not follow through on instructions and fails to finish schoolwork, chores, or duties in the workplace (not due to oppositional behavior or failure to understand instructions);
5. often has difficulty organizing tasks and activities;
6. often avoids, dislikes, or is reluctant to engage in tasks that require sustained mental effort (such as schoolwork or homework);
7. often loses things necessary for tasks or activities (e.g., toys, school assignments, pencils, books, or tools);
8. is often easily distracted by extraneous stimuli;
9. is often forgetful in daily activities;
10. often fidgets with hands or feet or squirms in seat;
11. often leaves seat in classroom or in other situations in which remaining seated is expected;
12. often runs about or climbs excessively in situations in which it is inappropriate (in adolescents or adults, may be limited to feelings of restlessness);
13. often has difficulty playing or engaging in leisure activities quietly;
14. is often "on the go" or often acts as if "driven by a motor";
15. often talks excessively;
16. often blurts out answers before questions have been completed;
17. often has difficulty awaiting turn,
18. often interrupts or intrudes on others (e.g., butts into conversations or games).

Source: American Psychiatric Association. (1994). Diagnostic and statistical manual of mental disorders (4th ed.). Washington, DC: Author.

F. Definition of Otherwise At-Risk Students

1. Students at-risk are those who are experiencing difficulty with learning, school achievement, progress towards graduation from high school, and/or preparation for employment because of social, emotional, physical and mental factors. Students are defined as being at-risk when they are

- a. performing at an inappropriate developmental level;
- b. one or more years behind in the basic skill levels in language arts and/or math;
- c. have been retained academically one or more years;
- d. have exhibited excessive absenteeism from school;

e. come from low socioeconomic level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§1305. Instruments for Identification and Screening—Appendix A

Test Cognitive Ability	Publisher	Cost	Admin. Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif.*	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wechsler Adult Intelligence Test-III (WAIS-III)	Psychological Corporation	\$548 \$65/25	75 min.	Difficult	16 - 89	30 min.	Standard	C-level	English/ Spanish	Global	Indiv	Assess	
Wechsler Intelligence Scale for Children-3rd edition (WISC-III)	Psychological Corporation	\$578 \$65/25	75 min.	Difficult	6 - 16	30 min.	Standard	C-level	English/ Spanish	Global	Indiv	Assess	
Kaufman Assessment Battery for Children (K-ABC)	American Guidance Service	\$340 \$36/25	35 - 85 min.	Difficult	2.5 - 12.5	20 min.	Standard	C-level	English	Global	Indiv	Assess	
Kaufman Brief Intelligence Test (KBIT)	American Guidance Service	\$115 \$27/25	15 - 30 min.	Mod	4 - 90	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Kaufman Adolescent and Adult Intelligence Test (KAIT)	American Guidance Service	\$520 \$48/25	75 min.	Difficult	12.5 - Adult	20 min.	Standard	C-level	English	Global	Indiv	Assess	
Stanford-Binet Intelligence Scales-4th Edition (SB-IV)	Riverside	\$624 \$66/35	75 min.	Difficult	2 - Adult	30 min.	Standard	C-level	English	Global	Indiv	Assess	
Slosson Full Range Intelligence Test	PAR	\$119 \$23/25	20 - 35 min.	Easy	5 - 21	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes

***Level A**

User has completed at least one course in measurement, guidance, or related discipline or has equivalent supervised experience in test administration and interpretation.

***Level B**

User has completed training in measurement, guidance, individual psychological assessment or special appraisal methods appropriate for a particular test.

***Level C**

User has completed a recognized graduate training program in psychology with appropriate course work and supervised practical experience in the administration and interpretation of clinical assessment instruments.

Test Cognitive Ability	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif. *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Woodcock Johnson Tests of Cognitive Ability-Revised	Riverside	\$460 \$44/25	90 min.	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv.	Assess	
Detroit Test of Language Skills (DTLA-3)	Pro-Ed	\$249 \$39/25	90 min.	Mod	6 - 17	20 min.	Standard	B-level	English	Global	Indiv.	Assess	
Test of Non-Verbal Intelligence (TONI-3)	Pro-Ed	\$219 \$34/50	15 - 20 min.	Easy	5 - 85	10 min.	Standard	B-level	None	Global	Indiv.	Screen	Yes
Comprehensive Test of Nonverbal Intelligence (CTONI)	Pro-Ed	\$269 \$28/25	1 hour	Mod	6 - 90	10 min.	Standard	B-level	None	Global	Indiv.	Assess	
Children's Memory Scale	Psychological Corporation	\$329 \$32/25	30 min.	Difficult	5 - 16	15 min.	Standard	C-level	English	Global	Indiv.	Assess	
Wechsler Memory Scale III	Psychological Corporation	\$331	45 min.	Difficult	16 - 89	15 min.	Standard	C-level	English	Global	Indiv.	Assess	
Quick Neurological Screening Test-Revised (QNST)	Psychological Corporation	\$50 \$16.50/ 25	20 - 30 min.	Easy	K - 17	10 min.	Standard	C-level	English	Global	Indiv.	Screen	
Bender Visual Motor Gestalt Test	Psychological Corporation	\$37	10 min.	Easy	5 - 11	10 min.	Standard	C-level	None	Global	Indiv.	Screen	
Developmental Test of Visual Motor Integration (VMI-4)	Pro-Ed	\$169 \$62/25	10 - 15 min.	Easy	3 - 18	15 min.	Standard	B-level	None	Global	Indiv./ Group	Screen	

Test Achievement Reading-Decoding	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wide Range Achievement Test-III (WRAT-III)	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/Group	Screen	Yes
Woodcock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/Spanish	Global	Indiv	Assess	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Asses	Yes
Kaufman Test of Educational Achievement (K-TEA) Comprehensive	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Kaufman Test of Educational Achievement (K-TEA) Brief	American Guidance Service	\$105 \$27/25	20 - 30 min.	Mod	5 - 18	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Woodcock Reading Mastery Test - Revised	American Guidance Service	\$215 \$40/25	45 min.	Mod	5 - 75	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Gray Oral Reading Test (GORT) 3rd Edition	Pro-Ed	\$147 \$34/25	15 - 30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Slosson Oral Reading Test-Revised (SORT-R)	Slosson Educational Publications	\$32 \$16/50	3 - 5 min.	Easy	4 - Adult	5 min.	Grade/ Age Equivalent	A-level	English	Dyslexia	Indiv	Screen	Yes
Gallestel-Ellis Test of Coding Skills: GE	Montage Press	\$27	15 - 30 min.	Easy	7 - Adult	15	Criterion	A-level	English	Dyslexia	Indiv/Group	Screen	Yes
Test Comprehension	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Nelson Denny Reading Test	Riverside	\$33 \$61/50	30 min	Easy	9th grade/Adult	5 min	Standard	B-level	English	Global	Indiv/Group	Assess	
Woodcock-Johnson-Revised-Tests of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min	Standard	B-level	English/Spanish	Global	Indiv	Asses	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min	Standard	B-level	English	Global	Indiv	Asses	Yes
Kaufman Test of Educational Achievement (K-TEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Gates-MacGinitie Silent Reading Tests-Survey F	Riverside	\$81 \$56/35	90 min.	Easy	K - 12	10 min.	Standard	B-level	English	Global	Indiv/Group	Assess	Yes
Gray Oral Reading Test (GORT) 3rd Edition	Pro-Ed	\$147 \$34/25	15 - 30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Reading Comprehension-3	Pro-Ed	\$139 \$34/50	30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv/Group	Screen	Yes
Test Math Computation	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wide Range Achievement Test - III (WRAT - III)	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/Group	Screen	Yes
Woodcock-Johnson Revised Tests of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/Spanish	Global	Indiv	Screen	Yes
Kaufman Test of Educational Achievement (K-TEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Screen	Yes

Key Math Revised	American Guidance Service	\$210 \$40/25	35 - 50 min.	Mod	K - 9	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Math Applications													
Woodstock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Kaufman Test of Educational Achievement(KTEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	American Guidance Service	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Key Math Revised	Psychological Corporation	\$210 \$40/25	35 - 50 min.	Mod	K - 9	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test Written Expression	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv or Group	Assess or Screen	Min. 1903 Criteria
Oral and Written Language Scale (OWLS)	American Guidance Service	\$80 \$44/25	20 min.	Easy	5 - 21	20 min.	Standard	B-level	English	Global	Indiv/ Group	Assess	
Woodstock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Test of Written Language (TOWL-3)	American Guidance Service	\$164 \$39/25	90 min.	Mod	7.5 - 18	20 min.	Standard	A-level	English	Global	Indiv/ Group	Assess	
Test of Early Written Language (TEWL- 2)	Riverside	\$154 \$51/10	30 - 45 min.	Mod	3 - 10	15 min.	Standard	B-level	English	Global	Indiv	Assess	
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Spelling													
Wide Range Achievement Test - III	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/ Group	Screen	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Woodcock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Kaufman Test of Educational Achievement (K-TEA) Comprehensive	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	2 - 90	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Written Spelling (TOWL - 3)	Pro-Ed	\$74 \$34/50	20 min.	Easy	5 - 18	10 min.	Standard	B-level	English	Global	Indiv/ Group	Screen	Yes
Test Oral Language Receptive	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Peabody Picture Vocabulary Test - 3rd Edition (PPVT-3)	American Guidance Service	\$120 \$23/25	11-12	Easy	2.5 - 90	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test of Language Development (TOLD-2)	Pro-Ed	\$212 \$66/50	30 - 60 min.	Mod	4 - 9	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Expressive													
Expressive Vocabulary Test (EVT)	American Guidance Service	\$120 \$23/25	15 min.	Easy	2.5 - 90	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Oral and Written Language Scale (OWLS)	American Guidance Service	\$80 \$44/25	20 min.	Mod	5 - 21	20 min.	Standard	B-level	English	Global	Indiv/ Group	Assess	Yes
Test of language Competence (TLCE)	Psychological Corporation	\$266 \$28/25	60 min.	Mod	9 - 19	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Clinical Evaluation of Language Functions-III (CELF-3)	Psychological Corporation	\$265 \$23/12	45 - 60 min.	Mod	5 - 16	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes

Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	90 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Detroit Test of Language Skills (DHLA - 3)	Pro-Ed	\$249 \$39/25	90 min.	Mod	6 - 17	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Preschool Language Scale	Psychological Corporation	\$98 \$22/12	20 - 50 min.	Mod	0 - 6	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test of Problem Solving	Lingui Systems	\$58 \$15/20	20 - 25 min.	Mod	6 - 12	10 min.	Standard	A-level	English	Global	Indiv	Screen	Yes
Test Informal Assessment	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Portfolio	N/A						Criterion				Indiv	Screen	
Handwriting	N/A						Criterion				Indiv	Screen	
Sequencing: alphabet, days, weeks, months of year, numbers 1 through 20	N/A						Criterion				Indiv	Screen	
Spontaneous Language Sample	N/A						Criterion				Indiv	Screen	
Spontaneous Writing Sample	N/A						Criterion				Indiv	Screen	
Spontaneous Writing Sample expository and narrative	N/A						Criterion				Indiv	Screen	
Behavior Rating Scales													
Behavior Assessment System for Children (BASC)	American Guidance Service	\$75 \$26/25	10 - 20 min.	Mod	4 - 18	10 min.	Standard	C-level	English/Spanish	Global	Indiv	Assess	
Children's Attention and Adjustment Survey (CAAS)	American Guidance Service	\$116 \$25/15	5 - 10 min.	Easy	5 - 13	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Student and Self-Concept Scale	American Guidance Service	\$40 \$25/15	20 - 30 min.	Easy	Grades 3 - 12	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Connors' Rating Scales (Revised)	Psychological Corporation	\$135 \$99/ 100	10 min.	Easy	3 - 17	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Piers Harris Self-Concept Scale	WPS	\$115 \$17/25	10 min.	Easy	Grades 4 - 12	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Multidimensional Self-Concept Scale	Pro-Ed	\$64 \$29/50	20 min.	Easy	Grades 5 - 12	5 min.	Standard	B-level	English	Global	Group	Screen	Yes
ADD-H-0 Comp Teacher's Rating Scales	Hawthorne	\$64 \$50/ 100	10 - 15 min.	Easy	Grades K-8th	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test Screening	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin Qualif *	Lang.	Global or Dyslexia Spec.	Indiv or Group	Assess or Screen	Min. 1903 Criteria
Degrees of Reading Power	Touchstone	\$75/30	45 - 50 min.	Mod	Grades 1 - 3	N/A	Criterion	A-level	English	Global	Group	Screen	Yes
Gallestel Ellis Test of Coding Skills	Montage Press	\$27	15 - 30 min.	Easy	7- Adult	15	Criterion	A-level	English	Dyslexia	Indiv/Group	Screen	Yes
Test of Phonological Awareness	Pro-Ed	\$129 \$35/25	20 min.	Easy	K-2	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Slingerland Screening Tests	Riverside	\$71 \$16/12	30 min.	Easy	Grades 1 - 6	10 min.	Criterion	A-level	English	Dyslexia	Indiv/Group	Screen	Yes
The Phonological Awareness Test	Lingui System		40 min.	Easy	5 - 9	10 min.	Standard/Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Test of Awareness of Language Segments	Pro-Ed	\$98 \$24/50	15 min.	Easy	4 - 7	5 min.	Criterion	B-level	English	Dyslexia	Indiv	Screen	Yes
Lindamood Auditory Conceptualization Test	Pro-Ed	\$98 \$27/50	15 - 30 min.	Easy	N/A	5	Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Dyslexia Screening Instrument (Checklist)	Psychological Corporation	\$58 \$11/25	20 min.	Easy	6 - 21	5	Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Woodcock Diagnostic Reading Battery	Riverside	\$247 \$34/25	50 - 60 min.	Mod	4 - 90	20	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Early Reading Ability	Riverside	\$183 \$39/25	15 - 30 min	Mod	3-10	5	Standard	B-level	English	Global	Indiv	Assess	Yes

Decoding Skills Test			30 min.	Easy	N/A	15 min.	Standard /Criterion	A-level	English	Global	Indiv	Screen	Yes
Observation Survey of Early Literacy Achievement	Heireman	\$25	15 min.	Easy	K-3	5 min.	Criterion	A-level	English	Global	Indiv	Screen	Yes
Developmental Reading Assessment (DRA)	Celebration Press	\$85	25 min.	Easy	K-3	5 min.	Criterion	A-level	English	Global	Indiv	Assess/Screen	Yes
Yopp Singer Test of Phoneme Segmentation	Reading Research Quarterly	Free	7 min.	Easy	Pre K-2	5	Criterion	A-level	English	Global	Indiv	Screen	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§1307. Multisensory Structured Language Programs for Students with Dyslexia or "At Risk" Readers—Appendix B

Name or Program	Target Population	Student Materials	Teacher Materials	Cost	Training Needed
Alphabetic Phonics	Grades 2 - adult	Student Book Alphabet Exercises & Rev Progress Measurements Supplementary Supplies Let's Read Books	Teacher's Guide Alphabet Acariases & Rev Progress Measurements	\$115/Class \$36/child	150 instructional hours 700 clinical teach hours \$1200/teacher course fee Fees based on desired curriculum Call for pricing
Intermediate Essential Language Structures Program (785) 271-6668	Grades 5 - 12	Intermediate Practice Cards Intermediate Wordbook Intermediate Student Assignment Sheets Writing Skills I & II Syllable Power Book I Syllable Power Book II	Teachers Manual GE Test of Coding Skills	\$121	10 days @ \$800/day
Language! (850) 934-0554	Grades 1- 12	J & J Language Readers 9 student books Vocabulary cards Sounds & Letters	Instructor's Manual	\$360	4 days @ \$1500/day
Language Circle 1-800-450-0343 Project Read Strand 2 Linguistics Project Read-Strand 3 Comprehension Project Read Strand 4 Written Expression	Grades 1- 4 Grades 4 - 8 Grades 4 - 8 Grades 1- adult	Decidable Text Controlled Readers Affix Card Pack Controlled readers/stories Narrative & expository text Sentence Frames	Phonology Guide Lesson Plan Books Phonology Kit Affix Guide Linguistics Guide Story Form Guide Report Form Guide Framing Your Thoughts Guide	\$350 \$115 \$115 \$125	4 days w/certified consultant @ \$1300/day 2 days @ \$1300 a day 4 days w/certified consultant @ \$1300/day 3 days @ \$1300/day
Slingerland (206) 453-1190	Grades 1 - 12	Student Spelling Book	Manual for Manuscript Manual for Cursive Teacher's Word Lists Phonogram Chart Alphabet Wall Cards	\$200	2 to 4 week sessions @ 4688/teacher
Wilson Language Training 1 (800) 899-8454	Grades 2 - 12	Student Readers Grades 1- 12 Student Workbooks Stories for Students	Instructor's Manual Dictation Books Rules Notebook Sound (Phoneme) Cards Word Cards Syllable Cards Group Sound Cards Videos	Standard \$229 Delux \$439	2-4 days @ \$1000/day

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

§1309. Characteristics Associated with Dyslexia and Related Disorders—Appendix C

- A. Lack of or limited phonological awareness.
- B. Common error patterns in reading and learning behaviors, such as:

1. reading decoding inaccuracies in single words and nonsense words (e.g., detached syllables);

2. slow reading rate;
3. omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);
4. reduced awareness of patterns in words;
5. difficulties generalizing word and language patterns.

C. Language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities.

D. Errors in spontaneous spelling.

E. Spontaneous written language is very simple or poor in comparison to spoken language.

F. Spontaneous written language shows poor organization and mechanics.

G. Additional factors which may contribute to the above characteristics:

1. family history of similar problems;
2. late in learning to talk;
3. receptive language skills are typically better than expressive;
4. difficulty in finding the "right" word when speaking;
5. difficulty in processing both oral and written language. May also affect foreign language acquisition;
6. difficulty in learning to write the alphabet correctly in sequence;
7. cramped or illegible handwriting;
8. late in establishing preferred hand for writing;
9. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west and others;
10. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;
11. reversal of letters or sequences of letters that are not developmentally appropriate;
12. difficulty in learning to decode and comprehend age appropriate written information;
13. slow reading speed;
14. difficulty in learning sound-letter correspondence;
15. difficulty in learning and remembering printed words;
16. repeated erratic spelling errors;
17. error proneness in reading;
18. word substitutions in oral reading;
19. difficulty identifying, blending, segmenting and manipulating phonemes;
20. losing ground on achievement or intelligence tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Interested persons may submit written comments until 4:30 p.m. December 9, 1999 to 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 1903—Education of Dyslexic Students**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The state and local implementation costs of this rule are approximately \$2,540,087 in Fiscal Year 1999-2000. Currently, most of the cost associated with the implementation for this program is the responsibility of the local school. \$500,000 will be funded through 8(g) in Fiscal Year 1999-2000 and all other costs will be funded through the local funds. These costs include three levels of training and associated costs. Level one

training of approximately 432 teacher and administrator trainers is required because of federal and state laws regarding the education of handicapped (dyslexic) students within regular education. This six day training regarding program implementation and procedures for educating the dyslexic student will cost approximately \$678,237. This funding would allow each district to send four classroom teachers and two administrators to be trained as the "in-house trainers". These turn-key trainers would be able to train all necessary faculty within their own parish at little cost to the district, once their own training is completed. The only cost the system would be for the hiring of substitutes to cover the classrooms while teachers are in training. Level two training would include a one day follow-up in North Louisiana and one in South Louisiana. This would be a follow-up or continuation of the initial training to provide additional program concerns and implementation issues. This training for 432 participants would cost approximately \$34,450. Level three consists of a total of five days training to be conducted at each local district at a cost to local districts of \$1,720,000. Approximately \$107,400 in administrative costs will be paid through 8(g), as well as the remaining \$392,600 which will provide training to the LEA's. This revision of the Bulletin combines R.S. 17:7(11) and R.S. 17:392.1-392.2 into one document. The revision also clarified the language in an attempt to make the new document easier to use.

Note: The option presented for delivery of training in this fiscal statement represents one way of complying with federal and state requirements for services for dyslexic students within regular education. This option would allow local parishes to deliver training to teachers within the system based on their own individual choices of those multisensory, structured, language programs that are in compliance with the law. Other statewide and regional training options are being considered by the Department of Education at this time. All efforts will be considered in order to provide optimal training at the lowest cost possible.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections for state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

With continuation of this rule and appropriate funding, all dyslexic students in regular education will be provided with an appropriate multi-sensory regular education program, in accordance with federal civil rights requirements. These students will become more successful citizens capable of contributing to the economies in districts throughout the state. These students will receive instruction appropriate to their needs. Local school systems will become more successful in meeting the needs of all students within their jurisdiction. In-service will be provided and documented by the LEA's. Local systems will be required to document the process for the identification and treatment of these students. Forms and documentation must be maintained in the student's cumulative folder.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effective professional development will improve the teaching skills of all teachers and thereby result in a better education for all students learning to read, write, and spell. In addition, students who may otherwise have not graduated from high school should be able to obtain a diploma with the specialized instruction received in this program. This should also result in a decrease in the number of students who are retained or who may drop-out of school due to overwhelming frustration.

Marlyn Langley
Deputy Superintendent
9910#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

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

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)—Eligibility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Costs for funding additional TOPS awards are anticipated to increase as a result of this rule change, by \$413,120 in FY 1999-2000, \$745,608 in FY 2000-2001, and \$1,036,953 in FY 2001-2002.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS applicants who have taken high school courses that have been approved as substitutes for the core curriculum course requirements for TOPS may use those courses to establish eligibility for an award.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
9910#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS)—Scholarship and Grant Programs
(LAC 28:IV.103, 301, 701, 703, 705,
803, 805, 903, 907, 1701 and 2101)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)—Scholarship and Grant Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Estimated costs to implement revisions to the program in FY 1999-2000 will be reduced by \$780,000, reduced by \$232,260 in FY 2000-2001, and increased by \$262,207 in FY 2001-2002. This includes an estimated \$500 for publication in the *Louisiana Register*, additional mailing expense of \$2700 and total decreased awards of \$783,200 during FY 1999-2000; mailing expense of \$2700 and total decreased awards of \$234,960 during FY 2000-2001; and mailing expenses and total increased awards of \$259,507 during FY 2001-02.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule establishes procedures to promulgate amended provisions of the Tuition Opportunity Program for Students (TOPS) included in Acts 435, 805, and 1302 of the 1999 Regular Legislative Session. As a result of these Acts additional mailings will occur, certain dependents of military personnel will be eligible to receive awards, and graduates of certain high schools will be ineligible to receive awards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this change.

Jack L. Guinn
Executive Director
9910#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Tuition Opportunity Program for Students
(TOPS)—Teacher Award (LAC 28:IV.901 and 911)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Program for
Students (TOPS)—Teacher Award**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost associated with publishing these technical rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Costs for Funding for TOPS—Teacher awards will not increase as a result of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS—Teacher applicants who teach in a school located in an economically disadvantaged region as defined by the U.S. Department of Education, rather than the Louisiana Board of

Elementary and Secondary Education (BESE), will discharge the service obligation of the award on a basis of one year of teaching to fulfill two years of funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
9910#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Chemical Accident Prevention (AQ196)
(LAC 33:III.5901)

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 October 25, 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 November 1, 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
9910#018

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Definitions (LAC 58:V.1501)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend and restate LAC 58:V.1501, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the change in definition of Retired Member to exclude a DROP participant who is not yet eligible to receive a distribution from his DROP account. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 15. Deferred Retirement Option Plan §1501. Definitions

Retired Member—a former Member receiving retirement benefits from the Fund, but not including a DROP participant who is not yet eligible to receive a distribution from his DROP Account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J.

Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Definitions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs or savings to State or local governmental units.
- 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.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Eligibility (LAC 58:V.1503)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend and restate LAC 58:V.1503, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to extend the length of time a member may participate in the DROP from three to five years, as provided by Act No. 1377 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity
Chapter 15. Deferred Retirement Option Plan
§1503. Eligibility**

A. - A.4. ...

5. By submitting a DROP enrollment application, the member shall automatically elect to participate in the DROP for the full five-year period. Nonetheless, the member may exit the DROP at any time by filing with the board an application to withdraw from the DROP, effective upon the board's approval.

B. A member may participate in the DROP only once, except as otherwise provided in §1505(T).

C. The member's application to enter the DROP shall request retirement on the first day of a calendar month and shall specify a requested effective date no earlier than the first day of the second calendar month following the calendar month in which the DROP enrollment application is submitted. The service retirement application and the DROP enrollment application shall not be submitted to the board for consideration and approval until such time as all required and requested data, documentation, and information have been submitted to the board in order to complete both the service retirement and the DROP enrollment applications. Such participation shall be limited to a maximum period of five years - i.e. 60 calendar months - as to each individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Eligibility

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs or savings to State or local governmental units.
- 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.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Economic benefits to affected persons include the ability to participate in the Deferred Retirement Option Plan for an additional two years while remaining employed with the fire department. There are no estimated costs to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

General Rules for Participation
(LAC 58:V.1701 and 1703)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to add chapter LAC 58:V.17, Sections 1701 and 1703 in accordance with the Administrative Procedure Act. The proposed chapter will notify the public that the board will offer an optional form of distribution of a member's retirement benefit as an initial partial lump sum benefit with a reduced monthly annuity payable for life. This rule implements Act No. 1377 of the 1999 Regular Session. The proposed addition has no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

**Chapter 17. Partial Lump-Sum Option Payment
§1701. General Rules for Participation**

A. If a member has not participated in the DROP, upon application for retirement, he may elect to receive the actuarial equivalent of his retirement benefit as a reduced monthly benefit, payable for life, plus an initial lump-sum benefit. The amount of the initial lump-sum benefit, as determined by the member, shall not exceed an amount equal to the member's normal retirement benefit times sixty.

B. The member's monthly retirement will be actuarially reduced based on the lump-sum amount withdrawn and the member's age at retirement. The partial lump-sum benefit, together with the member's reduced normal retirement benefit, must be actuarially equivalent to the member's normal retirement benefit as set forth in R.S. 11:3384.

C. The cost of living adjustment (COLA) granted by the Board of Trustees to retirees who elect to receive a reduced retirement benefit and a partial lump-sum benefit shall be based only on the reduced retirement benefit and shall not be based on the partial lump-sum benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

**§1703. Distributions from Partial Lump-Sum Option
Payment**

A. Distributions from the partial lump-sum option payment (PLOP) elected by the member are not eligible for rollover as is the case with DROP accounts. However, the amount of the PLOP may be left with the Fund and subject to the rules applicable to distribution of DROP accounts.

1. As detailed in those rules applicable to DROP accounts, allowable distributions vary depending upon

whether the member retires before, during or after the calendar in which the member reaches age 55.

B. A member who retires before the calendar year in which the member reaches age 55 may receive distribution of his PLOP at retirement and avoid incurrence of the 10% early distribution penalty. In the event the PLOP remains on deposit with the Fund, all distribution rules applicable to DROP accounts apply, including the 10% early distribution penalty and recapture penalty, if applicable.

C. A member who retires during or after the calendar year in which the member reaches age 55 may receive distribution of his PLOP account in accordance with rules applicable to DROP accounts, will not be subject to the 10% early distribution penalty or recapture penalty, but will be subject to those DROP rules requiring mandatory distributions of the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Rules for Participation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no implementation costs or savings to State or 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.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no estimated costs to non-governmental groups. Directly affected persons receive an economic benefit by electing the optional form of benefit and accelerating receipt of their retirement benefit up to sixty months.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Participation in and Withdrawal from DROP (LAC 58:V.1505)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend and restate LAC 58:V.1505, in accordance with the Administrative Procedure Act. The amended rule notifies the public that members who are currently participating in the DROP may, prior to December 31, 1999, elect to extend or terminate their participation in the DROP. Further, the proposed rule provides that the Fund will assess an administrative fee of up to 2 percent on any member's DROP account that is not distributed to the member after the member's participation in the DROP terminates. The proposed amended rule also provides that such a DROP account will earn interest after the member's DROP participation ends. The proposed amended rule further extends the period of DROP participation from three to five years, and provides several optional distribution forms for a member's DROP benefit. These rules implement Act No. 1377 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 15. Deferred Retirement Option Plan §1505. Participation in and Withdrawal from the DROP

A. - F. ...

G. A member's DROP Account shall not be charged, debited, or assessed any fees, charges or similar expenses of any kind for any purpose, nor shall the account be subject to diminution based on valuation or earnings losses of any kind during the member's participation in the DROP. In addition, no such fees, charges, losses, or other similar charges shall be charged, debited, or assessed against the member indirectly, during the member's participation in the DROP.

H. A member's DROP account shall not earn or accrue any interest, gains, or earnings of any kind, nor shall the member accrue such earnings indirectly, during his DROP participation. Upon completion of participation in the DROP, and regardless of whether the member terminates employment with the fire department, the DROP account will earn interest each year based on a five-year rolling average of the composite rate of return of the pension Fund, minus an administrative fee of no more than 2 percent, to be deducted from the member's DROP account each year.

I. ...

J. The duration of participation in the DROP shall not exceed a period of five consecutive years - i.e., 60 consecutive calendar months measured from the effective date of commencement of participation in the DROP.

K. A member may terminate his participation in the DROP to be effective as of the last day of any calendar

month prior to the end of the maximum five-year period by filing with the Board of Trustees of the Fund a DROP withdrawal application, providing the DROP withdrawal application is submitted to the board no later than the last day of the previous calendar month. Nevertheless, in the event the board determines, based on all facts and circumstances at issue, that justice so requires and equity so warrants, the board shall be fully authorized, entirely in its discretion, to approve termination of a firefighter's participation in the DROP effective upon a date earlier or later than would otherwise apply.

L. If a member participating in the DROP does not terminate his covered employment upon completion of five years of participation in the DROP or upon the effective date of his approved withdrawal prior thereto, payment of the member's service retirement benefit into the member's DROP account shall automatically cease. In the event the member has failed to notify the board of his intent to continue in his covered employment after the effective date of his DROP completion, the board shall notify the member, in writing, at his last known address, that the Fund has ceased monthly payments into his DROP account.

M. If the member should die during his period of participation in the DROP, a lump sum payment of the balance in the member's DROP account shall be paid to his designated beneficiary, or if none, to his estate upon written application to the Fund office. Any additional survivor and/or death benefits payable to the member's beneficiary or beneficiaries, in accordance with the member's individual retirement election, all applicable statutory provisions, and the board's rules and regulations pertaining to death benefits, shall also be subject to distribution.

N. ...

O. Upon termination of covered employment, distribution of the member's DROP account may be made as a one-time lump sum payment, in a series of periodic or non-periodic payments, or as a partial lump sum payment with periodic distributions of the balance, all as allowed herein. Allowable distributions vary depending upon whether the member retires before, during or after the calendar year in which the member reaches age 55. Direct rollovers are subject to the Fund's current rules and regulations and IRS guidelines.

1. Members Retiring Before the Calendar Year in which the Member Reaches Age 55

a. A member who does not rollover his DROP account may withdraw 100 percent of his account balance at any time after termination of covered employment upon written notice to the Fund Office. For a member who retired before the calendar year in which the member reached age 55, and who is at the time of the distribution under age 59½, the distribution of the member's taxable portion of his account balance will be subject to an early distribution penalty of the IRS equal to 10 percent of the taxable distribution.

b. A member may elect to receive his DROP account balance (including both taxable and non-taxable portions), as a series of equal periodic (at least annual) payments over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. Such periodic distributions over life expectancy are not subject to the 10 percent early

distribution penalty; however, the distributions are subject to normal taxation on the taxable portion.

i. Upon the member's attainment of age 59½, the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without inurrence of the 10 percent early distribution penalty until the member reaches age 70½, at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in paragraph P herein.

c. A member may elect to receive 100 percent of the non-taxable portion of his DROP account in one lump sum payment, and the balance of the DROP account as a series of equal periodic payments (at least annual) over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. No 10 percent penalty is assessed on this type of distribution.

i. Upon the member's attainment of age 59½, the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without inurrence of the 10 percent early distribution penalty until the member reaches age 70½, at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in paragraph P herein.

d. A member may elect to receive his distribution in a manner other than a series of equal periodic payments based upon his and/or his beneficiary's life expectancy; however, if the member is under age 59½ at the time of such a non-periodic distribution of a taxable amount of the DROP account, any such distribution will be subject to a 10 percent early distribution penalty, as well as a recapture penalty. The recapture penalty provides for a 10 percent additional tax on all taxable distributions received by the member since retirement, inclusive of monthly retirement benefits and any prior distributions from the member's DROP account.

i. Non-periodic distributions may be made no more than four times in a calendar year, and then only on the first day of each fiscal quarter (March 1, June 1, September 1 and December 1). All non-periodic distributions must be a minimum of \$1,000. For any distribution, the member must provide the Fund Office with written notice no later than thirty (30) days prior to the first business day of the fiscal quarter.

2. Members Retiring During or After the Calendar Year in Which the Member Reaches Age 55

a. Any member terminating covered employment during or after the calendar year in which the member reaches age 55 may elect any of the options available under Paragraph O(1) above without being subject to the 10 percent early distribution penalty or recapture penalty. All other rules regarding non-periodic payments apply. In order for the Fund to comply with federal law regarding the mandatory commencement of retirement benefits, distributions from a member's DROP account must commence no later than April 1 of the calendar year following the calendar year in which the member reaches age 70½. These minimum distributions are accomplished by a monthly DROP distribution which is calculated to distribute the entire balance of a member's DROP account over a period not extending beyond the life expectancy of

the member or the joint life expectancy of the member and his designated beneficiary. Distributions above those which are mandatory are allowable, subject to the Fund's current rules.

i. Members terminating covered employment during or after the calendar year in which the member reaches age 55, who are now over age 70½, are eligible to receive distribution of all or any portion of the DROP account exceeding the mandatory distributions, subject to Fund's current rules.

P. Members and their beneficiaries may defer receipt of a distribution from the DROP account indefinitely, subject to the Internal Revenue Service's mandatory distribution rules.

Q. Upon termination of covered employment, the member may file an application with the board requesting distribution of his DROP Account on the first day of any calendar month following the calendar month of termination. Provided, however, that the requested distribution date shall be no earlier than the second calendar month following the calendar month of termination.

R. - S. ...

T. The member shall not be permitted to change, revoke or rescind the retirement benefit distribution option selected and/or the beneficiary or beneficiaries he designated upon entering into the DROP regarding his service retirement benefit nor shall any such change be permitted at the time the DROP account is distributed. However, a member who is participating or has participated in the three-year DROP and has continued in active employment with the fire department, may elect, on or before December 31, 1999, either to extend his participation in the DROP for the remainder of the five-year period beginning on the date he entered the DROP, or to revoke his participation in the DROP. In the event the member elects to extend his participation in the DROP, any period of time he has been out of the three-year DROP will be included in calculating the five-year DROP period. In the event the member elects to revoke his three-year DROP participation, the member's entire DROP account, including any interest earned, will be returned to the Fund, and the member will be placed in the same position as if he had never elected to participate in the DROP. The member will be considered to have been an active employee in the system, and all creditable service and compensation earned during the period of the revoked DROP participation will be credited toward the member's new benefit calculation. If the member chose any option other than the single life annuity when he originally entered the DROP, his spouse must consent to the revocation and any subsequent election, other than a joint and survivor annuity option. However, no action by the member nor decision by the Board may circumvent a previously approved QDRO.

U. If the member does not terminate his covered employment upon completion of the maximum five-year participation period or upon such earlier date as the member has specified for withdrawal:

1. monthly service retirement benefit payments into the DROP account shall cease; and

2. the member shall resume active membership in the system; and

3. the member shall commence accrual of additional creditable service under the system, and

NOTICE OF INTENT

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

**Post-DROP Accruals and Retirement Benefits
(LAC 58:V.1507)**

4. the member's DROP account will begin to earn interest each year based on a five-year rolling average of the composite rate of return of the pension Fund, minus an administrative fee of no more than 2 percent, which will be deducted from the member's DROP account each year. The interest rate will be determined by the Fund actuary at the end of each calendar year, but will be effective beginning the subsequent fiscal year (July 1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended LR 23:1145 (September 1997), amended LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Participation in and Withdrawal from
DROP**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to State or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is 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)**

Economic benefits to directly affected persons include the ability to participate in the Deferred Retirement Option Plan for an additional two years while remaining employed with the fire department. Participants may also receive a rate of return on their Deferred Retirement Option Plan accounts equal to the five-year rolling average of the composite rate of return of the Fund, with an administrative fee of up to two percent.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(f), proposes to amend and restate LAC 58:V.1507, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to allow members to retain their DROP accounts with the Fund in excess of one year, and to withdraw amounts not less than \$1,000 from their DROP accounts on a periodic or non-periodic basis. This rule implements Act No. 1377 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 15. Deferred Retirement Option Plan

§1507. Post-DROP Accruals and Retirement Benefits

A. - D.1. ...

2. The Fund shall distribute to the member, upon his written application to the Fund office, a lump sum payment in an amount specified by the member. Provided, however, that the member may not elect to withdraw an amount less than \$1,000, or more than the balance in his DROP account at the time the application is filed with the Board of Trustees.

3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Post-DROP Accruals and Retirement
Benefits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs or savings to State or local governmental units.
- 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.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Sick and Annual Leave (LAC 58:V.1305)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to add LAC 58:V.1305, in accordance with the Administrative Procedure Act. The new rule notifies the public of the board's intent to recognize a member's sick and annual leave for purposes of obtaining additional pension credit with the Fund. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58

RETIREMENT

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 13. Service Credit

§1305. Sick and Annual Leave

A member may elect to utilize any sick and annual leave that he has accrued for purposes of obtaining additional pension credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Sick and Annual Leave

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
If participants utilize their sick and annual leave to obtain additional pension credit, there may be a yet to be determined actuarial cost borne by the City of New Orleans. However, this cost would be offset by elimination of the City's terminal leave liabilities. Determination of an estimated number of participants who may exercise this right cannot be made at this time.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is 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)
Participants would have the option to either be paid for accumulated sick and/or annual leave upon retirement, or apply such leave towards retirement credit.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Trustees' Procedures Applicable to Payments
to DROP Accounts (LAC 58:V.1509)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(f), proposes to amend and restate LAC 58:V.1509, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to pay interest and charge an administrative fee to a member's DROP account if he elects to leave his DROP account with the Fund upon completion of his DROP participation. This rule implements Act No. 1377 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58
RETIREMENT

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 15. Deferred Retirement Option Plan

**§1509. Trustees' Procedures Applicable to Payments to
DROP Accounts**

A. ...

B. The board shall maintain a detailed accounting of each individual DROP account on behalf of each member currently participating in the DROP. Each month that a payment is due on behalf of the member, the Board shall show a credit to the member's account and shall maintain a current balance showing the total credit to each member's account. At such time as the balance maintained in an individual member's DROP account shall exceed \$95,000, the board shall make all subsequent monthly payments directly to a separate Fund bank account to be known as the excess DROP account to be established at a bank other than the Fund's then current custodian bank in order to preserve full FDIC pass-through insurance for all participating members. An accounting of all such deposits exceeding \$95,000 per member and the balance to the credit of each such individual DROP participant in the separate excess DROP account shall be maintained. The sum of the participant's balances in both banks, plus any accrued earnings, less any applicable administrative fee, shall be the total to be distributed to the Participant at such time as a distribution is due.

C. - F. ...

G. On an annual basis, or more frequently should the board so determine, all earnings accrued in the excess DROP account shall be transferred from the excess DROP account to the Fund's general bank account, to be invested or utilized as a general asset of the Fund. However, an accounting of all interest earned by the DROP account of any member whose DROP participation has terminated, but who has not yet received a distribution of the full amount of his DROP account, shall be made no less frequently than annually.

H. No payments, disbursements, or deductions of any kind shall be made from the assets held in the excess DROP account other than distributions owed to individual members or their beneficiaries and the transfer of earnings held in the excess DROP account to the Fund's general assets, as described in §1509.G.

I. All costs, expenses and fees payable in connection with DROP participation and/or maintenance of excess DROP account during a member's DROP participation, including any bank charges associated with the maintenance thereof, shall be paid, if and when due, only from the Fund's general assets and from bank accounts other than the excess DROP account. However, upon a member's completion of DROP participation, regardless of whether he terminates employment with the fire department, his DROP account, if left with the Fund, will be charged an administrative fee of up to 2 percent per year.

J. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended by the Board of

Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Richard J. Hampton Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, Louisiana, before 5:00 p.m., November 19, 1999.

Richard Hampton
Secretary-Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Trustees' Procedures Applicable to
Payments to DROP Accounts**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to State or 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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to directly affected non-governmental groups. Directly affected persons may benefit by receiving a rate of return on their Deferred Retirement Option Plan account balances higher than what they might experience if the Deferred Retirement Option Plan accounts were withdrawn and invested individually. The affected persons' Deferred Retirement Option Plan accounts will be charged an administrative fee of up to two percent per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Richard Hampton
Secretary-Treasurer
9910#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Area Agencies on Aging—Policies
(LAC 4:VII.1121-1143)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective January 20, 2000. The purpose of the proposed rule change is to update existing policies governing area agencies on aging (AAAs) in Louisiana. The Federal Older Americans Act of 1965, as amended, (OAA) requires GOEA, as the State agency on aging, to divide the State into planning and service areas (PSAs) and designate an AAA for each. The AAAs receive

federal and state funds based upon a formula approved by the U.S. Administration on Aging. OAA funds are awarded to AAAs for the purpose of assisting AAAs to develop or enhance comprehensive and coordinated community based service systems for providing all necessary supportive services, including nutrition services, for persons age 60 and over throughout the planning and service area. Except where a waiver is granted by the State agency, AAAs must award funds for direct services by contract to community services provider agencies and organizations. This rule complies with Public Law 89-73 and R.S. 46:932. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1121. Definitions

Administration on Aging (AoA)—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 (AAA)—an agency designated by the State agency on aging to develop and administer the area plan for a comprehensive and coordinated system of services for older persons in a planning and service area.

Area Plan—the application submitted by an AAA to receive Older Americans Act funds. Older Americans Act funds can be expended only under an area plan that has been approved by the State agency on aging.

Assistive Technology—technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

Comprehensive and Coordinated System of Services—a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

1. facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such systems by any public or private agency or organization;
2. develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals;
3. use available resources efficiently and with a minimum of duplication; and
4. encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.

Contract—an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

DHHS—the United States Department of Health and Human Services.

Direct Service—any activity performed to provide services directly to an individual older person by the staff of a service provider or an area agency.

Director—the director of the Governor's Office of Elderly Affairs.

Disability—except when such term is used in the phrase "severe disability," "developmental disabilities," "physical or mental disability," "physical and mental disabilities," or "physical disabilities," means a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning, and emotional adjustment.

Governor's Office of Elderly Affairs (GOEA)—the focal point on aging for the State of Louisiana, also referred to as the State Unit on Aging (SUA), "State agency on aging," or "State Agency."

Greatest Economic Need—the need resulting from an income level at or below the official poverty guideline (as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS in accordance with Subsection 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902 (2)]).

Greatest Social Need—the need caused by noneconomic factors, which include:

1. physical and mental disabilities;
2. language barriers; and
3. cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that:
 - a. restricts the ability of an individual to perform normal daily tasks; or
 - b. threatens the capacity of the individual to live independently.

Information and Assistance—a service for older individuals that:

1. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;
2. assesses the problems and capacities of the individuals;
3. links the individuals to the opportunities and services that are available; and
4. to the maximum extent practicable, ensures that the individuals receive the services needed, and are aware of the opportunities available, by establishing appropriate follow-up procedures.

African American, Not of Hispanic Origin—a person having origins in any of the black racial groups of Africa.

American Indian or Alaskan Native—a person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian American/Pacific Islander—a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, Samoa and the Hawaiian islands.

Hispanic—a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

Low-Income Minority—a person whose income is below the official poverty guideline (as defined each year by the Office of Management and Budget and adjusted by the Secretary of DHHS in accordance with Subsection 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902 (2)] and who is designated as African American, Not of Hispanic Origin; Hispanic; American Indian or Alaskan Native; or Asian American/Pacific Islander.

Minority—minority older persons are confined to the following designations:

Native Americans—American Indians, Alaskan Natives, and Native Hawaiians.

Older Americans Act (42 United States Code Section 3001 et seq.)—federal legislation, first passed in 1965, that authorizes grants to states for programs and services for the elderly.

Outreach—interventions initiated by an agency or organization for the purpose of identifying potential clients and encouraging their use of existing services and benefits.

Planning and Service Area (PSA)—a geographic area of the state 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 awarded a subcontract from an area agency to provide services under the area plan.

Severe Disability—a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that:

1. is likely to continue indefinitely; and
2. results in substantial functional limitation in 3 or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning, and emotional adjustment.

State Agency on Aging—the single State agency designated to develop and administer the state plan on aging and to be the focal point on aging in the state (also referred to as the "state unit on aging ("SUA") or "State Agency"). The Governor's Office of Elderly Affairs (GOEA) is the State agency for Louisiana.

Subcontract—an award of financial assistance by an AAA to a service provider.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(a)(2)(A).

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:

§1123. Purpose of the Area Agency on Aging

A. Area Agencies on Aging (AAAs) receive funds from the State agency on aging to plan, develop, coordinate and arrange for services in their respective planning and service areas (PSAs). As advocates, AAAs use Older Americans Act (OAA) funds to leverage state and local resources to expand and improve services. AAA's contract with public or private groups to provide services paid for using OAA funds. In some cases, the AAA may act as the service provider.

B. The AAA shall be the leader relative to all aging issues on behalf of all older persons in the PSA. This means the AAA shall carry out a wide range of functions related to advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation,

designed to lead to the development or enhancement of comprehensive and coordinated community based systems in, or serving, each community in the PSA. These systems shall be designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible.

C. A comprehensive and coordinated community based system described in §1123.B shall:

1. have a visible focal point of contact where anyone can go or call for help, information or referral on any aging issue;
2. provide a range of options;
3. assure that these options are readily accessible to all older persons - the independent, semi-dependent and totally dependent - no matter what their income;
4. include a commitment of public, private, voluntary and personal resources committed to supporting the system;
5. involve collaborative decision-making among public, private, voluntary, religious and fraternal organizations and older people in the community;
6. offer special help or targeted resources for the most vulnerable older persons, those in danger of losing their independence;
7. provide effective referral from agency to agency to assure that information or assistance is received, no matter how or where contact is made in the community;
8. evidence sufficient flexibility to respond with appropriate individualized assistance, especially for the vulnerable older person;
9. have a unique character which is tailored to the specific nature of the community; and
10. be directed by leaders in the community who have the respect, capacity and authority necessary to convene all interested persons, assess needs, design solutions, track overall success, stimulate change and plan community resources for the present and for the future.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 302(l).

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:

§1125. Area Agency on Aging Standards

A. Planning

1. The Area Agency on Aging (AAA) shall determine its objectives systematically after making a finding of need and determination of priorities within the PSA.

2. The AAA shall establish a mechanism to ensure that objectives are monitored and accomplished as set forth in the area plan.

3. Area agencies shall install a workable system for ongoing data collection in the PSA.

4. Area agencies shall implement a workable system for determining the needs of older persons within the PSA.

5. Area agencies shall establish a mechanism for determining and analyzing on an ongoing basis the existing services and resources available in the PSA to meet the needs of older persons and the extent to which such resources meet identified needs.

B. Leadership/Advocacy

1. The AAA shall act as the focal point in the PSA for activities which promote comprehensive and coordinated services for older persons.

2. The AAA shall operate a public information program in the PSA focusing on needs and concerns of seniors in the PSA.

C. Pooling/Coordination

1. The AAA shall establish linkages with public and private agencies in the PSA for the purpose of fostering comprehensive and coordinated services to older persons.

2. The AAA shall effect joint program agreements with other agencies in the PSA.

3. The AAA shall identify and tap potential resources to be directed toward inaugurating, expanding or improving services to older persons.

D. Monitoring, Assessment and Provision of Technical Assistance

1. The AAA shall develop and employ a mechanism for regularly monitoring subcontracts under the area plan.

2. The AAA shall develop and implement systematic procedures for regular assessments of subcontracts under the area plan.

3. The AAA shall develop and implement a plan for providing technical assistance to subcontractors under the area plan and to other organizations in the PSA concerned with the needs of older persons.

E. Contracts Management

1. The AAA shall develop and issue standardized application kits and procedures for applications for funds under the Area Plan.

2. The AAA shall develop standardized procedures and criteria for review of applications for funds under the Area Plan.

3. Selection criteria and procedures for the award of subcontracts shall be published and disseminated to agencies applying for Title III funds.

4. The AAA shall maintain on file selection criteria and procedures used for the award of subcontracts.

5. The AAA shall consult with the advisory council before awarding subcontracts.

6. Where the AAA encounters delays in the review of proposals, applicants shall be notified.

7. The AAA shall establish and disseminate appeals procedures for subcontract proposals which are denied approval.

8. The AAA shall maintain documentation supporting all of its subcontracts.

9. Notifications of approval and disapproval of proposals shall be issued in writing and on a timely basis.

10. The AAA shall develop and implement procedures for amendments to subcontract awards.

11. Proposals of subcontractors which receive funds shall contain clearly defined objectives that are in keeping with those included in the approved area plan.

12. Subcontracts awarded shall define the relationship between the AAA and the subcontractor.

13. The AAA shall establish written procedures governing the management and operation of subcontracts which are in keeping with Federal and state laws, regulations, policies and procedures. The procedures shall be communicated to agencies conducting subcontracts under the area plan.

14. Agencies conducting subcontracts under the area plan shall meet the requirements for licensure, if required.

15. Where there are multi-lingual/cultural older persons in the PSA, the AAA shall assure that the staff of subcontractors include multi-lingual/cultural personnel.

16. The AAA shall obtain documented assurance that information about consumers of services is maintained confidentially by subcontractors.

17. The AAA shall obtain documented assurance that subcontractors coordinate their services with the existing information and assistance services.

18. The AAA shall require subcontractors to provide evidence that services are accessible to older persons.

F. Fiscal Management

1. The AAA shall establish and implement fiscal management procedures to assure effective operation of the AAA programs.

2. The AAA shall establish and implement a system to monitor financial expenditures of subcontracts under the area plan.

3. The AAA shall maintain an accounting system which is in keeping with sound accounting procedures.

4. The AAA procurement practices shall be in keeping with Federal, state and local practices.

5. Expenditures made under the area plan shall be in keeping with pertinent Federal, State and local policies.

6. AAA program and financial records shall be maintained in conformance with Federal and state regulations for reporting.

7. The AAA shall follow established property management policies and procedures.

8. The AAA shall have an internal audit plan which is in keeping with generally accepted auditing practices and Federal and state regulations.

G. Establishing or Maintaining Information and Assistance Services. The AAA shall establish or maintain information and assistance services in sufficient numbers to assure that all older persons in the PSA have reasonably convenient access to such services.

H. Outreach

1. The AAA will use outreach efforts that will:

a. identify individuals eligible for assistance under this Act, with special emphasis on:

i. older individuals residing in rural areas;

ii. older individuals with greatest economic need (with particular attention to low-income minority individuals);

iii. older individuals with greatest social need (with particular attention to low-income minority individuals);

iv. older individuals with severe disabilities;

v. older individuals with limited English-speaking ability; and

vi. older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

b. inform the older individuals referred to in §1125.H.1.a.i-v, and the caretakers of such individuals, of the availability of such assistance.

2. The AAA shall conduct an annual evaluation of the effectiveness of outreach conducted under §1125.H.1.

3. If there is a significant population of older Native Americans in the PSA of the area agency, the AAA shall

conduct outreach activities to identify elder Native Americans in such area and shall inform such older Native Americans of the availability of assistance under the Older Americans Act.

I. Staff Development

1. The AAA shall establish and implement a plan which provides for in-service training for all staff.

2. The AAA shall establish and implement a plan which provides that the staff of the subcontractors under the area plan receive training.

J. Civil Rights. The AAA shall develop an implement a system to ensure that benefits under the Area Plan are provided in a non-discriminatory manner as required under Title VI of the Civil Rights Act of 1964.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(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:

§1127. Area Agency on Aging Responsibilities

A. Advocacy Responsibilities:

1. to monitor, evaluate, and comment upon all policies, programs, hearings, and community actions which affect older persons;

2. to solicit comments from the public on the needs of older persons;

3. to represent the interests of older persons to public officials, and public and private agencies or organizations;

4. to consult with and support the State's long term care ombudsman program;

5. to coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons;

6. to supply service providers under the area plan with copies of interagency agreements relative to services provided;

7. to facilitate the coordination of community-based, long term care services designed to retain individuals in their homes, and designed to emphasize the development of client-centered case management systems as a component of such services;

8. to identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet; and

9. to ensure that case management is provided in a consistent manner throughout the PSA.

B. General Planning and Management Responsibilities:

1. to develop and administer an area plan for a comprehensive and coordinated service delivery system in the PSA, in compliance with all applicable laws and regulations;

2. to assess the kinds and levels of services needed by older persons in the PSA, and the effectiveness of the use of resources in meeting these needs;

3. to enter into contracts to provide all services funded under the plan, except as provided in Section 307(a)(10) of the Older Americans Act;

4. to provide technical assistance, monitor and evaluate the performance of all service providers under the plan;

5. to coordinate the administration of its plan with the federal programs specified in Section 203(b) of the Older Americans Act, and with other federal, state, and local resources in order to develop the comprehensive and coordinated service system required by Section 306(a)(1) of the Older American's Act;

6. to conduct periodic evaluations of activities carried out under the area plan;

7. to establish an advisory council as required by Section 306(a)(6)(F) of the Older Americans Act to advise continuously the AAA on all matters relating to the development of the plan, the administration of the plan and operations conducted under the plan;

8. to give preference in the delivery of services under the area plan to older persons with the greatest economic and/or social need, as defined in Section 305(d)(2) of the Older Americans Act, with particular attention to low-income minority individuals;

9. to assure that older persons in the planning and service area have access to information and referral services;

10. to provide adequate and effective opportunities for older persons to express their views to the area agency on policy development and program implementation under the plan;

11. to identify older persons and inform them of the availability of services under the plan. These outreach efforts should have special emphasis on the rural elderly and the isolated urban elderly, and on those with greatest economic and/or social need;

12. to seek to involve the private bar in legal assistance activities;

13. to designate, where feasible, community focal points as provided in Section 306(a)(3) of the Older Americans Act;

14. to plan appropriate programs to meet identified needs of the elderly in the PSA. This includes:

a. determining which services will be funded and at what level;

b. identifying client target groups which will receive priority, in general and for specific services;

c. setting standards for service delivery;

d. developing a case management system to be used by service providers; and

15. to develop and maintain on file for review:

a. standards for use in the delivery of services;

b. a description of the interrelation among service providers funded by the AAA; and

c. methods for selecting persons with the greatest social and economic need to receive services;

16. to provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M.

C. Eldercare/Case Management

1. AAAs may provide eldercare, as specified in LAC 4:VII.1241.

2. AAAs may provide one or more component of case management for a private entity, as specified in LAC 4:VII.1241.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and 45 CFR 1321.61(a)(4).

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 17:600 (June 1991), LR 18:1376 (December 1992), LR 25:

§1129. Area Agency on Aging Governing Body

A. Authority and Responsibilities

1. A governing body shall be responsible for all AAA activities, including the expenditure of funds awarded by GOEA.

2. The AAA governing body has the authority to:

- a. appoint the director of the AAA;
- b. determine personnel, organization, fiscal and program procedures subject to GOEA policies;
- c. determine overall program plans and priorities for the AAA, including provisions for evaluating performance;
- d. grant final approval on program proposals and budgets of service providers under the area plan;
- e. assure compliance by all subcontractors with all rules, regulations, and GOEA policies;
- f. supervise the extent and the quality of the participation of the elderly in the programs of the AAA and its subcontractors; and
- g. determine the rules and procedures of the governing body subject to GOEA policies.

3. The governing body is responsible for securing financial resources beyond those allocated by GOEA.

4. Members of the governing body shall avoid conflicts between their personal interests and the interests of the AAA.

a. Conflicts of interest include situations wherein a member of the governing body:

- i. is involved in a AAA decision or action regarding another entity in which the member or a member of his/her immediate family has a financial interest, is an employee, is a director or is a consultant; or
- ii. discloses information relating to the business of the AAA which can be used by another entity to the detriment of the AAA.

b. Immediate family is defined as follows: Husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

c. Other entities include any organization or individual which does business or seeks to do business with the AAA or competes with the AAA.

4. If a member of the AAA governing body is aware of any personal interest related to an issue that exists or is under consideration by the AAA, the individual shall immediately and prior to the discussion about or action on the issue:

- a. disclose the existence of all personal interests; and
- b. abstain from voting and/or attempting to influence the decision.

B. Composition

1. Former AAA board members shall not be employed as paid agency staff of the same area agency for a period of two (2) years immediately following separation from the governing body.

2. Former AAA staff members shall not serve on the governing body of directors of the same area agency for a period of two (2) years immediately following separation

from employment, except where the governing body is composed of elected public officials (e.g., parish council or police jury).

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(c)(4), Section 307(a)(11) and R.S. 43:1119.

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 17:600 (June 1991), LR 25:

§1131. Area Agency on Aging Advisory Council

A. Functions of the Advisory Council

1. The advisory council shall carry out advisory functions which further the AAA's mission of developing and coordinating community-based systems of services for all older persons in the PSA.

2. The advisory council shall advise the AAA relative to:

- a. developing and administering the area plan;
- b. conducting public hearings;
- c. representing the interests of older persons; and
- d. reviewing and commenting on all community policies, programs, and actions which affect older persons with the intent of assuring maximum coordination and responsiveness to older persons.

3. The advisory council shall follow operational procedures established by the AAA governing body.

B. Composition of the Area Agency Advisory Council

1. The advisory council shall include individuals and representatives of community organizations who will help to enhance the leadership role of the AAA in developing community-based systems of services.

2. The advisory council shall be made up of:

- a. more than 50 percent older persons, including minority individuals who are participants or who are eligible to participate in Older Americans Act Title III programs;
- b. representatives of older persons;
- c. representatives of health care provider organizations, including providers of veterans' health care (if appropriate);
- d. representatives of supportive services providers organizations;
- e. persons with leadership experience in the private and voluntary sectors;
- f. local elected officials; and
- g. the general public.

3. Members of the AAA governing body shall not serve on the advisory council.

C. Review by Advisory Council. The AAA shall submit the area plan and amendments for review and comment to the advisory council before it is transmitted to the State agency for approval.

AUTHORITY NOTE: Promulgated in accordance with OAA Sec. 306 (a)(6)(F) and 45 CFR 1321.57.

HISTORICAL NOTE: Promulgated by the Office of the Governor's Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:599 (June 1991), LR 25:

§1133. Area Plan

A. Purpose of the Area Plan. The area plan is the application submitted by an area agency to the State agency in order to receive funds. The area plan contains provisions required by the Older Americans Act and its implementing regulations and the Governor's Office of Elderly Affairs. It

includes commitments that the area agency will administer activities so funded in accordance with all requirements. The area plan also contains a detailed statement of the manner in which the area agency is developing a comprehensive and coordinated system throughout the planning and service area for all allowable services. An area agency may receive contracts and enter into subcontracts under the Older Americans Act only under an approved area plan.

B. Duration and Format of the Area Plan. The AAA must submit to GOEA an area plan for its PSA for a two, three, or four year period with such annual adjustments as may be necessary. The area plan shall be based upon a uniform format developed by GOEA for area plans within the state.

C. Content of the Area Plan

1. The area plan will specify:
 - a. conditions of older persons in the PSA;
 - b. current system of service delivery based on the most recently available data;
 - c. an assessment of current capacity in the PSA to perform service systems development activities;
 - d. the organization of the AAA;
 - e. composition and functions of the AAA advisory council;
 - f. goals and objectives for the conduct of the AAA functions described in this Section, and for development and delivery of services for the aging. Service delivery objectives include, for each service, the projected numbers of persons to be served and standard units of service to be provided;
 - g. financial plan, showing projected expenditures by source (federal, state, and local) and service;
 - h. standard assurances for complying with applicable laws, regulations, and other directives; and
 - i. The AAA's approach to, plans for, and/or current involvement in eldercare, as defined in LAC 4:VII.1241.

2. Whenever the AAA plans to provide eldercare and/or to provide case management for a private entity, the area plan, or its amendment, shall include the provisions specified in LAC 4:VII.1241.D.

3. Each area plan shall designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations that have a proven record of providing services to older individuals, that:

- a. were officially designated as community action agencies or community action programs under Subsection 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or
- b. came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs; and
- c. meet the requirements under Subsection 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3)).

D. Development and Amendment of the Area Plan

1. Area plans shall be developed for a two, three, or four year period with annual updates and amendments as necessary. The plan's resource allocation, including allotments for services, shall be prepared annually and as available allotments change. The format of the area plan and

instructions for its completion shall be prescribed by the Governor's Office of Elderly Affairs and issued separately.

2. Prior to the adoption of the content areas described in §1133.C of this Manual, the area agency must conduct public hearings in accordance with a schedule established by the advisory council. The area agency must give at least fourteen days' notice to older persons, public officials, and other interested parties of the times, dates and locations of the public hearings in each parish. The area agency shall prepare public hearing materials to provide information and serve as a basis for comments, recommendations and other input to the development of the area plan.

3. Public hearings on plan amendments will only include information relating to the part of the plan being amended.

4. In accordance with the state public meetings law, LA R.S. 42:4.1 et seq., the area agency, in holding public hearings, must give at least fourteen days' notice to older persons in each parish, including the advisory council, public officials, and other interested parties of the times, dates, and locations of the public hearing(s) which will be held. Public hearings must be held at a time and location which permit older persons, public officials, and other interested parties a reasonable opportunity to participate. The area agency must submit the area plan and amendments for review and comment to the advisory council.

E. Review and Approval of the Area Plan and Amendments

1. The completed area plan will be submitted to GOEA for review and approval by a date specified by GOEA. The resource allocation plan describing the projected costs by source of funds and service, will be submitted annually as prescribed by GOEA.

2. The area plan must be amended if:

- a. a new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provisions;
- b. a U.S. or Louisiana Supreme Court decision changes the interpretation of a statute or regulation;
- c. the AAA proposes to add, substantially modify, or delete any area plan objective(s); or
- d. GOEA specifies additional circumstances under which area plan amendments are required.

3. Amendments must be documented on those area plan exhibits affected by the change and submitted to the State Agency with a written rationale. Such proposed changes may not be executed until approved by GOEA.

4. The State Agency shall approve an area plan which meets the requirements of this manual and the area plan format and guidelines issued.

5. A plan which is disapproved by the State Agency shall be returned to the AAA along with a written reason for disapproval. At its discretion, the State Agency may request that specific changes be made before resubmittal.

6. The AAA may appeal disapproval of its area plan or amendment in accordance with GOEA hearings and appeals procedures.

F. Management Plan. As part of a management plan the AAA will develop a work plan for attaining the objectives outlined in the area plan. The work plan shall be kept on file for review at the AAA office.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306, and Section 307.

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 17:57 (January 1991), LR 18: 1376 (December 1992), LR 25:

§1135. Program Administration

A. Contract Development. The area agency is responsible for the translation of program designs into service delivery project proposals to be developed and carried out by service providers. In carrying out its service procurement responsibilities, the area agency shall adhere to Governor's Office of Elderly Affairs procurement procedures issued annually.

B. Capacity Building, Training and Technical Assistance. The area agency is responsible for the provision of consultation, training, and support to staff of service providers and other organizations to strengthen their administrative and service delivery capability.

C. Monitoring and Assessment of Service Providers

1. The area agency on aging shall monitor and assess all funded services provided under the area plan. Monitoring and assessment of service providers shall be conducted with documentation maintained on file at the area agency on aging office. Self-assessments shall be conducted where direct delivery has been authorized by the Governor's Office of Elderly Affairs. The purpose of these activities is to measure service delivery efficiency and effectiveness and to assure compliance with contractual agreements. Suggested corrective action outlined in the monitoring report shall be used as a tool for program planning and improvement. Personnel qualifications and staff utilization will be reviewed as part of this monitoring process.

2. Monitoring activities carried out by the area agency will be directed toward:

- a. identifying performance problems as a basis for determining provider need for technical assistance and training;
- b. measuring the provider's progress toward providing those services specified in the proposal, and placing an emphasis on older persons with the greatest social and economic need;
- c. assuring compliance with applicable federal, state, and local law, regulations and other requirements; and
- d. assuring cost-effective use of available resources for the elderly.

D. Program Evaluation. The area agency is responsible for evaluating programs for the aging, both those provided under the area plan and those offered by other organizations.

E. Contributions for Services Under the Area Plan

1. The area agency shall assure that agencies providing supportive and nutrition services under the area plan shall afford participants the opportunity to contribute to the costs of the services provided. The participants shall determine for themselves what they are able to contribute toward the cost of the service. No eligible person shall be denied a supportive or nutrition service because of his failure to contribute.

2. The area agency shall ensure that the methods of receiving contributions from individuals by the agencies providing supportive or nutrition services under the area plan shall be handled in such a manner as to insure confidentiality.

3. The area agency shall assure that all contributions will be used to expand the services of the provider, and that nutrition services providers must use all contributions to increase the number of meals served, and/or to facilitate access to such meals. Providers of supportive services must use all contributions to increase supportive services.

F. Confidentiality and Disclosure of Information. The area agency shall ensure that information about or obtained from an older person, in a form which identifies the person, shall not be disclosed without the individual's informed, written consent or that of his authorized representative.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and Section 307(a)(13)(C).

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:

§1137. Services to Special Populations

A. Low-Income Minority Individuals

1. The AAA shall include in each agreement made with a provider of any service under this title, a requirement that such provider will:

- a. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;
- b. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and
- c. meet specific objectives established by the AAA, for providing services to low-income minority individuals within the planning and service area.

2. The AAA shall set specific objectives for providing services to older individuals with greatest economic or social needs, include specific objectives for providing services to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan.

3. The AAA shall include in each agreement made with a provider of any service under Title III of the Older Americans Act, a requirement that such provider will:

- a. specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;
- b. to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and
- c. meet specific objectives established by the AAA, for providing services to low-income minority individuals within the planning and service area.

4. The AAA will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals.

B. Native Americans. The AAA will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under Title III of the Older Americans Act, if applicable.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5) and 45 CFR 1321.39.

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:

§1139. State Agency Approval of Area Agency on Aging Contracts

The AAA must submit all proposed subcontracts with profit making organizations under the area plan to the State Agency for prior approval.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 212 and 45 CFR 1321.55.

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:

§1141. Priority Services

A. General Rules

1. The AAA must allot the following minimum percentages of their funding under Title III-B of the Older Americans Act for the designated service categories:

a. services associated with access to services (transportation, outreach, information and assistance, and case management services): thirty percent;

b. in-home services (homemaker and home health aides, visiting and telephone reassurance, chore maintenance, and supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction): fifteen percent; and

c. legal assistance 5 percent.

2. GOEA shall waive the requirement in §1141.A.1 of this manual for any category of services described in such Paragraph if the AAA demonstrates to GOEA that services being furnished for such category in the area are sufficient to meet the need for such services in such area.

3. If a waiver is issued by the Governor's Office of Elderly Affairs for any category of priority service, the area agency must assure that an adequate proportion of its supportive services funds are allocated to the remaining priority services categories.

B. Waiver Requirements

1. Before an AAA requests a waiver under §1141A.2 of this manual, the AAA shall conduct a timely public hearing in accordance with the provisions of this Paragraph. The AAA requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

2. The AAA shall prepare a record of the public hearing conducted pursuant to §1141B.1 of this manual and shall furnish the record of the public hearing with the request for a waiver made to GOEA under §1141A.2 of this manual.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2), Section 306(b)(2), and Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 18:610 (June 1992), LR 25:

§1143. Service Procurement

A. General Rules for Services Funded under Title III of the Older Americans Act

1. AAAs use procurement contracts or subcontracts with service providers to provide all Title III services under their respective approved area plans except as provided in §1143.B of this manual.

2. GOEA shall be alert to organizational conflicts of interest or non-competitive practices among area agencies that may restrict or eliminate competition.

3. AAAs shall follow the service procurement guidance issued by GOEA.

4. GOEA shall evaluate AAA applications to provide direct services in order to determine whether direct delivery of such service(s) by an AAA using its own employees is necessary to assure an adequate supply of the service(s), or whether such service(s) of comparable quality can be provided more economically by the AAA.

5. In order to ensure objective contractor performance and eliminate unfair competitive advantage, GOEA shall review the documentation required in the service procurement guidance, including, but not limited to, standards, specifications, solicitations for proposals (SFPs) and/or evaluation criteria when deciding whether to authorize direct delivery of service(s) by an AAA.

B. Criteria for Direct Delivery of Services by an Area Agency

1. Area agencies may directly deliver services determined by GOEA to be directly related to area agency on aging administrative functions. GOEA has defined these services as: Case Management, Information and Assistance, and Outreach.

2. For services not directly related to area agency on aging administrative functions, GOEA, after exploring alternatives, may authorize direct service delivery if the AAA:

a. demonstrates that it is necessary to directly deliver service(s) to ensure an adequate supply of the service; or

b. demonstrates that it can provide service(s) of comparable quality more economically than other providers.

3. GOEA's decision concerning AAA requests for authorization to provide direct services will be based on one of two tests: The Adequate Supply Test (when no proposals are received by the AAA in response to the SFP); or The More Economic Test Standard (when proposals are received).

C. Test Standards

1. Adequate Supply Test Standard

a. The Adequate Supply Test will require area agencies to demonstrate that service(s) are either not offered or are only partially available in the PSA.

b. The Adequate Supply Test will be met when the AAA provides documentation that it has not received any proposals to deliver the service(s) in all or a portion of the PSA after the AAA has: 1) advertised the availability of funds; and 2) written to bona fide service providers, inviting them to submit proposals.

2. More Economic Test Standard

a. The More Economic Test will require an AAA to demonstrate that service(s) of comparable quality will be provided by the AAA at a unit rate at least ten percent lower than the lowest responsible applicant's proposed unit rate.

b. The More Economic Test Standard will be met when the AAA's sealed Narrative Proposal substantiates that it meets the Service Delivery Standards in §1143.F of this manual in a manner comparable in quality to the lowest responsible applicant's proposal; and provides the service(s) at a unit rate which is at least ten percent lower than the lowest responsible applicant's proposed unit rate. Unit rate is defined as the total expenditure of funds budgeted for the

service divided by the number of units of service to be delivered.

c. In applying the More Economic Test, GOEA shall utilize the criteria used by the AAA in the preliminary evaluation of proposals received from other potential providers.

D. Standard Procedures

1. For services where direct delivery authorization is not requested the AAA governing body shall:

- a. solicit proposals for service delivery and awards of financial assistance under procurement contract;
- b. evaluate proposals received; and
- c. award procurement contract(s) or financial assistance under contract to best applicant(s).

2. For each service the AAA desires to provide directly, the AAA governing body shall:

- a. solicit proposals for service delivery and awards of financial assistance under procurement contract;
- b. conduct a preliminary evaluation of all proposals received; and
- c. provide sufficient documentation to GOEA to enable the State Agency to make a determination of the necessity of direct service delivery by the AAA.

E. Service Delivery Standards

1. A person qualified by training and experience shall be designated to be responsible for the conduct of activities, including supervision of paraprofessional and volunteer staff.

2. There shall be adequate numbers of supervisory staff, trained and skilled in dealing with assessing the needs of older persons and assisting such persons to obtain needed services.

3. The service shall be provided in a timely manner to meet the individual needs of eligible participants.

4. There shall be an established system for follow-up on referrals.

5. There shall be an up-to-date file of community resources which will contribute to the well being of older persons.

6. Procedures shall be established for publicizing the service.

7. Linkages shall be planned with other services available under Title III Section 203 of the Older Americans Act.

8. There shall be a sound management system capable of furnishing timely and accurate fiscal and program reports.

9. There shall be a sufficient schedule of service delivery days. (minimum: 250 service delivery days per contract year)

10. Outreach shall be available to target older persons with the greatest social or economic need with particular attention to low-income minority individuals; older persons with severe disabilities; and older Native Americans [if there is a significant Native American population (at least 25 per parish) in the PSA], and rural elderly.

11. There shall be service delivery criteria for each service giving priority in the delivery of services to older individuals who are frail, homebound by reason of illness or

incapacitating disability or otherwise isolated; and older individuals with the greatest social or economic need (with particular attention to low-income minority individuals).

12. There shall be a system established for the re-evaluation of clients receiving services.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1885), LR 11:1078 (November 1985), LR 16:503 (June 1990), amended LR 18:610 (June 1992), LR 25:

Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. A public hearing on this proposed rule will be held on November 29, 1999 at the State Land and Natural Resources Building, 625 North Fourth Street, State Mineral Board Hearing Room, First Floor, Baton Rouge, LA 70802 at 10 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 5 p.m. November 29, 1999.

P.F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Area Agencies on Aging—Policies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change codifies existing practice based upon the 1992 Older Americans Act Amendments. It is estimated that there will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no effect on revenue collections of state or local governmental units as a result of this rule change. This rule change codifies existing practice based upon the 1992 Older Americans Act Amendments. OAA Title III funds are allocated among planning and service areas (PSAs) by an intrastate funding formula based upon the geographical distribution of older individuals in the state and among PSAs with the greatest economic and social needs. Local governmental units that are designated AAAs receive OAA Title III funding to develop and administer an area plan on aging.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or benefits to directly affected persons or non-governmental groups as a result of this rule change. This rule change codifies existing practice based upon the 1992 Older Americans Act Amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this rule change. OAA Title III funds for supportive and nutrition services are administered by designated AAAs. The AAAs are required to procure services

for persons age 60 and over through a competitive process. They must advertise the availability of funds and solicit proposals from service providers for supportive and nutrition services. Both profit and non-profit agencies can compete for subcontracts with AAAs to provide direct services under Title III of the OAA.

P. F. "Pete" Arceneaux, Jr.
Executive Director
9910#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

GOEA Policy Manual Revision
(LAC 4:VII.1271-1275)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective January 20, 2000. The purpose of the proposed rule change is to update existing policies governing hearing procedures for: service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed; persons filing a formal grievance with the Office of the State Ombudsman pursuant to LAC 4:VII.1229.L.3.b; any ombudsman against whom a grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman; and any applicant for reimbursement of incurred medical expenses whose application is denied and who files an appeal in accordance with LAC 4:VII.1237.H.1. This rule complies with R.S. 46:932 and R.S. 40:2802.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1271. Hearing Procedures for Service Providers and Applicants

A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an area plan is denied or whose contract is terminated or not renewed.

B. Right to a Hearing. Any service provider or applicant to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M, may request a hearing by GOEA on such action after all hearing procedures of the area agency on aging (AAA) have been exhausted.

C. Request for Hearing

1. A petitioner must request the hearing from GOEA within 30 days following receipt of the AAA's final action letter.

2. The request for the hearing shall be in writing and must state with specificity all grounds upon which petitioner refutes the basis of the action. The notice must include:

- a. a copy of the AAA's action letter;
- b. the dates of all relevant actions;

c. the names of individuals and organizations involved in the action appealed;

d. a citation of any provision of the Older Americans Act or accompanying regulations believed to have been violated by the AAA in taking the action appealed; and

e. a certified copy of the resolution by which, or of minutes of the meeting at which, the petitioner's governing body authorized the appeal; and

f. designation of one or more persons to represent it during the appeal, both by majority vote of a quorum of the governing body.

D. Submission of Hearing

1. The AAA, upon written request from GOEA, shall furnish copies of the following documents to the GOEA:

a. the minutes of the meeting of the AAA's governing body at which the subject action was considered and taken;

b. the minutes of the meeting of the AAA's advisory council at which the subject action was considered and recommended;

c. area agency memoranda, staff reports, and evaluations relevant to the action appealed;

d. the criteria used in awarding the contract involved in the hearing; and

e. the petitioner's application for the contract involved in the hearing.

2. No additional evidence may be admitted on the hearing unless the director of GOEA requests it or schedules an evidentiary hearing under Subsection 1271.E.

E. Evidentiary Hearing

1. If the director of GOEA determines that a hearing involves a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, he/she may schedule a hearing to take testimony. The director shall provide all parties at least ten working days notice of the date, place, and time of the hearing. Said notice shall be sent by registered or certified mail, return receipt requested. The notice shall include a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

2. The director may serve as the hearing examiner, or may appoint an impartial hearing examiner to preside at the hearing. The hearing examiner shall have the powers described in Subsection 1267.F.

3. The rules of evidence described in Subsection 1267(G) shall apply to an evidentiary hearing under this Section.

4. The hearing examiner shall make a record of the evidentiary hearing in accordance with Subsection 1267.M.

5. The rules pertaining to evidence, ex parte consultations, depositions, hearings and transcripts shall be as provided in Subsections G, H, I, J, and K of §1267, respectively.

F. Final Decision

1. The director shall decide all hearings under this rule but may direct a GOEA employee to make an initial review and recommend a decision.

2. The director shall decide the hearing solely on the basis of the record. The director shall not substitute his/her judgment for that of the AAA as to the weight of the evidence on matters committed to the AAA's discretion. The

director shall affirm the action heard unless it is unlawful, arbitrary, or not reasonably supported by substantial evidence in the record.

3. The director shall render a final decision on the hearing in writing within 120 days after receipt of the notice of appeal. The director shall send a copy of the final decision to each party by registered or certified mail, return receipt requested, within three days after it is rendered.

G. Rehearing. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

H. Record. The record for the hearing under this rule shall consist of the material listed in Subsection 1267.M.

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:

§1273. Hearing Procedures for Persons Filing Grievances with the Office of the State Long Term Care Ombudsman

A. Right to a Hearing. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any person filing a formal grievance with the Office of the State Ombudsman pursuant to Section 1229.L.3.b. or to the ombudsman against whom the grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman pursuant to LAC 4:VII.1229 L.3.f or L.5.b.iii.

B. Request for Hearing

1. A request for hearing must be received by GOEA within 30 days following petitioner's receipt of the notice of the State Ombudsman's decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the State Ombudsman's decision is appealed. 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 laws or regulations believed to have been violated; and
- d. all grounds upon which petitioner refutes the State Ombudsman's decision.

C. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:

- a. a statement of time, date, exact physical location (to include street address and city), 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;
- e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. 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 State Ombudsman or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision. In rendering his/her decision, the hearing examiner shall consider:

- a. all information relevant to the complaint;
- b. the provision of Section 307 (a) (12) of the Older Americans Act which requires the State Ombudsman or his/her representatives to "investigate and resolve complaints made by or on behalf of older individuals who are residents of long term care facilities relating to action, inaction or decisions...which may adversely affect the health, safety, welfare or rights of such residents"; and
- c. R.S. 2010.4 (D), which states, "No representative of the Office of the State Ombudsman will be liable under State law for the good faith performance of official duties as defined by state and federal laws and regulations."

E. Rules of Evidence

1. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. 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 GOEA's 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 GOEA 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.

F. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq. the Louisiana Administrative Procedure Act.

G. 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.

H. Hearing. The procedure to be followed for hearings held under §1273 shall be as provided in Subsection 1267.J.

I. Transcript. The rules governing transcripts for hearings held under §1273 shall be as provided in Subsection 1267.K.

J. 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. A copy of the decision shall also be sent to any other persons directly affected by the decision.

K. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

L. Record. The record in a hearing under this Section shall consist of the materials listed in Subsection 1267.M.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11 (a), published in the Federal Register/Vol. 53, No. 169/Wednesday, August 31, 1988.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:265 (March 1992), amended LR 25:

§1275. Hearing Procedures for Persons Filing Appeals in the Long Term Care Assistance Program

A. Right to a Hearing. The Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any applicant for reimbursement of incurred medical expenses whose application is denied and who files an appeal in accordance with LAC 4:VII.1237.H.1.

B. Request for Hearing

1. A request for hearing must be received by GOEA within 30 days following applicant's receipt of the written notification of adverse decision from the agency.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the agency's decision is appealed. The request must include:

a. the basis upon which petitioner refutes the agency's decision (i.e., additional information or administrative error); and

b. a specific statement of the suspected administrative error; and/or

c. additional information which the agency should consider in rendering a decision, including, but not limited to the following:

i. dates of all relevant actions; and

ii. the names of individuals, agencies or organizations who may be able to substantiate the petitioner's claim.

C. Administrative Review of Adverse Decision

1. Upon receipt of a request for a hearing pursuant to Subsection 1275.B, the administrator of the Long Term Care Assistance program (the program) shall investigate the allegation stated in the request; consider the additional information provided by the petitioner; and issue a written decision within 30 days.

2. The written decision shall inform the petitioner of the findings of the investigation, the actions to be taken, if any, as a result of the investigation, and the provisions for appealing the decision to the director.

3. If the administrator of the program fails to respond or to act upon an appeal within 30 days, or if dissatisfied with the results of the Administrative Review, the petitioner may refer the request for a hearing to the director.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.

2. GOEA shall issue a written notice to the petitioner and other interested persons 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;

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; and

e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. 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 administrator of the program or the petitioner.

2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision.

F. 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 GOEA's 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 GOEA 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.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq., 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 (A)(5)-(8) of the Louisiana Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1275 shall be as provided in Subsection 1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1275 shall be as provided in Subsection 1267.K.

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. A copy of the decision shall also be sent to any other persons directly affected by the decision.

L. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under this Section shall consist of the materials listed in Subsection 1267.M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November, 1992), amended LR 25:

Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. A public hearing on this proposed rule will be held on November 29, 1999 at the State Land and Natural Resources Building, 625 North Fourth Street, State Mineral Board Hearing Room, First Floor, Baton Rouge, LA 70802 at 10 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 5 p.m. November 29, 1999.

P. F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: GOEA Policy Manual
Revision**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that there will be no implementation costs or savings to state governmental units as a result of the proposed rule. There could be additional costs to local governmental units; however, the exact amount, if any, is unknown. Local governmental units whose applications to provide direct services under an area plan are denied or whose contracts are not renewed will be required to submit hearing requests to the Governor's Office of Elderly Affairs (GOEA) in writing and will incur the associated costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no effect on revenue collections of state governmental units. There could be an increase in revenue collections of local governmental units; however, the exact amount, if any, is unknown. If GOEA renders a hearing decision that is favorable to a local governmental unit, the area agency decision may be overturned and the appellant could be awarded a contract. The amount of such contracts vary greatly and cannot be determined at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Non-governmental groups whose applications to provide direct services under an area plan are denied or whose contracts are not renewed; and persons filing appeals in the State Ombudsman Program or the State Long Term Care Assistance Program will be required to submit hearing requests to the Governor's Office of Elderly Affairs (GOEA) in writing and will incur associated costs.

If GOEA renders a decision that is favorable to the non-governmental unit, the area agency decision may be overturned and the appellant could be awarded a contract. The amount of such contracts vary greatly and cannot be determined at this time.

If GOEA rules in favor of a LTC resident, he/she may receive program benefits for the duration of his/her eligibility. The economic benefit to persons filing an appeal in the Ombudsman program cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Although non-profit agencies are not in competition with each other, there is competition for funding. OAA Title III funds for supportive and nutrition services are administered by designated AAAs. The AAAs are required to procure services for persons age 60 and over through a competitive process. They must advertise the availability of funds and solicit proposals from service providers for supportive and nutrition services. Both profit and non-profit agencies will be able to compete for subcontracts with AAAs to provide direct services under Title III of the OAA.

P.F. "Pete" Arceneaux, Jr. Robert E. Hosse
Executive Director General Government Section Director
9910#075 Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Certified Social Work Examiners

Standards and Procedures
(LAC 46:XXV.Chapters 1-7)

The Louisiana State Board of Board Certified Social Work Examiners intends to adopt Rules, Standards and Procedures repealing the Board's current Rules, Regulations and Procedures and to implement Act 1309 of the 1999 Regular Session of the Louisiana Legislature. The rules will apply to applicants for the RSW registration, GSW certification and the LCSW license. They will also set fees, establish supervision rules, change current procedural rules for the disposition of complaints, establish application procedures, clarify continuing education rules, and define the Standards of Practice for all credential levels.

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 XXV. Licensed, Certified or Registered Social Workers Rules, Standards and Procedures

Chapter 1. Standards of Practice

§101. Scope and Applicability

The standards of practice apply to all applicants, and those who are registered, certified or licensed. The use of the term social worker within these standards of practice includes all applicants, and those who are registered, certified or licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§103. Purpose

The Standards of Practice/Code of Conduct provide a basis upon which to assess and measure the professional

conduct of an applicant and those who are registered, certified or licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§105. Violations

A violation of the Standards of Practice/Code of Conduct constitutes unprofessional or unethical conduct and constitutes grounds for disciplinary action or denial of credential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§107. General Practice Parameters

A. Character. A social worker shall maintain good moral character.

B. Client Welfare. Within the context of the specific standards of practice prescribed herein, a social worker shall make reasonable efforts to advance the welfare and best interests of a client.

C. Self-Determination. Within the context of the specific standards of practice prescribed herein, a social worker shall respect a client's right to self-determination.

D. Nondiscrimination. A social worker shall not discriminate against a client, colleague, student, or supervisee on the basis of age, gender, sexual orientation, race, color, national origin, religion, disability, political affiliation, or social or economic status. If the social worker is unable to offer services because of a concern about potential discrimination against a client, student, or supervisee, the social worker shall make an appropriate and timely referral. When a referral is not possible, the social worker shall obtain supervision or consultation to address the concern.

E. Professional Disclosure Statement. A social worker shall display at the social worker's primary place of practice or make available for all clients a statement that the client has the right to:

1. expect that the social worker has met the minimal qualifications of education, training, and experience required by state law;

2. examine public records maintained by the Board which contain the social worker's qualifications and credentials;

3. be given a copy of the standards of practice upon request;

4. report a complaint about the social worker's practice to the Board;

5. be informed of the range of fees for professional services before receiving the services;

6. privacy as allowed by law, and to be informed of the limits of confidentiality;

7. expect that the social worker will take reasonable measures consistent with the social worker's duty of confidentiality to limit access to client information and any expressed waivers or authorizations executed by the client. Reasonable measures include restricting access to client information to appropriate agency or office staff whose duties require such access;

8. receive information that a social worker is receiving supervision and that the social worker may be reviewing the client's case with the social worker's supervisor or consultant. Upon request, the social worker shall provide the name of the supervisor and the supervisor's contact information;

9. be free from being the object of discrimination while receiving social work services; and

10. have access to records as allowed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§109. Competence

A. Provision of Services

1. Social workers should provide services and represent themselves as competent only within the boundaries of their education, training, credential, consultation received, supervised experience, or other relevant professional experience.

2. Social workers should provide services in substantive areas or use intervention techniques or approaches that are new to them only after engaging in appropriate study, training, consultation, and supervision from persons who are competent in those interventions or techniques.

3. When generally recognized standards do not exist with respect to an emerging area of practice, social workers should exercise careful judgment and take responsible steps (including appropriate education, research, training, consultation, and supervision) to ensure the competence of their work and to protect clients from harm.

B. Continued Competence. A social worker shall take all necessary and reasonable steps to maintain continued competence in the practice of social work.

C. Limits on Practice. A social worker shall limit practice to the permissible scope of practice for the social worker's credential.

D. Referrals. A social worker shall make a prompt referral to other professionals when the services required are beyond the social worker's competence. Such referrals are always based solely on the best interests of the client.

E. Delegation. A social worker shall not assign, oversee or supervise the performance of a task by another individual when the social worker knows that the other individual is not credentialed to perform the task or has not developed the competence to perform such a task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§111. Practice Requirements

A. Assessment or Diagnosis. A social worker shall base services on an assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the assessment or diagnosis needs to be revised.

B. Assessment or Diagnostic Instruments. A social worker shall take reasonable steps to ensure that appropriate explanations of results are given. A social worker shall ensure that an explanation of the results is provided using language that is reasonably understandable to the person

assessed or to another legally authorized person on behalf of the client.

C. Plan. A social worker shall develop a plan for services which includes goals based on the assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the plan needs to be revised.

D. Supervision or Consultation. A social worker shall obtain supervision or engage in consultation when necessary to serve the best interests of a client.

E. Informed Consent

1. Social workers shall provide services to clients only in the context of a professional relationship with valid informed consent. Social workers should use clear and understandable language to inform clients of the plan for services, relevant costs, reasonable alternatives, the client's right to refuse or withdraw consent, and the time frame covered by the consent. Social workers shall provide clients with an opportunity to ask questions.

2. If the client does not have the capacity to provide consent, the social worker shall obtain consent for the services from the client's legal guardian or other authorized representative.

3. If the client, the legal guardian, or other authorized representative does not consent, the social worker shall at the earliest opportunity discuss with the client that a referral to other resources may be in the client's best interests.

F. Records

1. A social worker shall make and maintain records, written or electronic, of services provided to a client. At a minimum, the records shall contain documentation of the assessment or diagnosis; documentation of a plan, documentation of any revision of the assessment or diagnosis or of the plan; any fees charged and other billing information; copies of all client authorization for release of information and any other legal forms pertaining to the client. These records shall be maintained by the social worker or agency employing the social worker at least for a period of six years after the last date of service, or for the time period required by federal or state law, if longer. In regards to a minor client, records must be kept six years after client reaches majority. In addition, adoption records must be kept for perpetuity.

2. A social worker shall not represent by signature or any other means the extent of his/her participation in the provision of services (such as psychosocial evaluation, assessment, diagnosis, treatment plan, progress note or report) unless the social worker has formulated the psychosocial evaluation, assessment, diagnosis, treatment plan, progress note or report through direct contact with the client who provided the information included in the record.

3. A social worker shall not conspire or collude with another person or entity to misrepresent by signature or any other means the extent of his/her participation in the social worker's provision of services.

4. Social work students in field placement are specifically allowed to provide services under supervision. Social work supervisors may cosign all records indicating his/her supervisory function.

5. A social worker shall accurately complete and submit reports, assessments, evaluations, forms or similar documentation in a timely manner. This includes all forms

requested by the Louisiana State Board of Social Work Examiners.

G. Termination of Services

1. A social worker shall terminate a professional relationship with a client when the client is not likely to benefit from continued services or the services are no longer needed.

2. A social worker has an affirmative duty to take reasonable steps to avoid under-treatment and/or precipitous termination of a client.

3. A social worker who anticipates the termination of services shall give reasonable notice to the client. A social worker shall take reasonable steps to inform the client of the termination of the professional relationship. A social worker shall provide referrals as needed and/or upon the request of the client. A social worker shall not terminate a professional relationship for the purpose of beginning a personal or business relationship with a client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§113. Social Work Relationships

A. Exploitation. A social worker's duty requires the promotion and advancement of the best interests and welfare of clients, students and supervisees with whom the social worker has a professional social work relationship. It is a breach of this duty for a social worker to use the professional relationship to promote or advance the social worker's emotional, financial, sexual or personal needs. Examples of exploitative behavior may include, but are not limited to, the following:

1. inappropriately disclosing aspects of the social worker's life or personal problems;

2. seeking out or accepting advice or consultation from a client on financial, personal, real estate or other business matters;

3. hiring or bartering for services of a personal nature with the client, supervisee or student at the social worker's office, home or other location. If a social worker engages in this practice the burden of proof is on the social worker to prove exploitation has not occurred;

4. entering into a sale, lease, or joint venture or other business venture with a client, supervisee or student;

5. encouraging planned social meetings or contacts between the social worker and the client such as meals, parties, sporting and recreational events or similar functions; as distinguished from unplanned or unavoidable meetings at which both the social worker and the client are in attendance; and further distinguished from such activities where social workers are legitimately expected to participate in such events;

6. inappropriate touching, holding, kissing or physical contact between social worker and client, supervisee or student;

7. giving or exchanging inappropriate gifts, gratuitous services, or personal items between the social worker and the client, supervisee or student.

B. Dual Relationships. Social workers have an affirmative duty to maintain the best interest of clients and former clients as the predominant consideration during the existence of the social worker/client relationship and

thereafter. While clients and former clients with whom the social worker has or had a clinical/therapeutic relationship are at greater risk, any relationship with a client or a former client exposes clients and former clients to the risk of exploitation. Such contact tends to change the focus of the social worker's intent and impair professional judgment.

C. Burden of Proof. Social workers shall be aware, even in those instances where other relationships are not specifically prohibited, that the social worker by promoting, encouraging, or participating in any relationship with a client or former client assumes the burden of proof. The social worker must fully demonstrate that the client or the former client was neither exploited nor harmed by such relationships. This burden applies to all of the following subparts, regardless of the intent of the social worker.

1. Personal Relationships with Clinical/Therapeutic Clients. A social worker shall not engage in a personal relationship with a clinical/therapeutic client. When a social worker may not avoid a personal relationship with a clinical/therapeutic client, the social worker shall take necessary protective measures consistent with the best interests of the clinical/therapeutic client. In addition to the general burden of proof set out in §113.C, the social worker has the burden of demonstrating the appropriate measures employed.

2. Personal Relationships with Former Clinical/Therapeutic Clients. A social worker may engage in a personal relationship, except as prohibited by §113.C.4, with a former clinical/therapeutic client, if the former clinical/therapeutic client was notified of the termination of the professional relationship. The social worker has a continuing duty to safeguard the best interests of the former clinical/therapeutic client.

3. Sexual Contact with a Client, Supervisee or Student. A social worker shall not engage in or request sexual contact as defined in §113.C.5, with a client, a client's spouse or former spouse, any member of the client's immediate family or with any person with whom the client has or has had a sexual relationship. The prohibition of this rule extends to supervisees and students during such times and under such circumstances where the social worker is in a supervisory or teaching relationship. This rule also expressly prohibits social workers from engaging in any behavior which a reasonable person would find sexually stimulating, seductive or sexually demeaning when such behavior is either directed toward or exhibited in the presence of any person with whom sexual contact is otherwise prohibited by this Rule. Social workers shall not sexually harass a client, supervisee or student.

4. Sexual Contact with a Former Client. A social worker who has provided clinical/therapeutic social work services to a client shall not engage in or request sexual contacts as defined in §113.C.5, with the former client under any circumstances. A social worker who has provided other social work services to a client should not engage in or request sexual contact as defined in §113.C.5, with the former client at any time if such contact exposes the former client to exploitation or harm.

5. Sexual Contact Defined. Sexual contact means sexual touching, sexual intercourse, either genital or anal, cunnilingus, fellatio, or the handling of the breasts, genital

areas, buttocks, or thighs, whether clothed or unclothed, by either the social worker or the client.

6. **Business Relationship with a Client, Supervisee or Student.** A social worker shall not engage in any type of business relationship other than the provision of social work services, including social work supervision. Business relationships do not include purchases made by the social worker from the client, supervisee or student when they are providing necessary goods or services to the general public.

7. **Business Relationship with a Former Client.** A social worker should avoid engaging in a business relationship with a former client. The social worker has a continuing duty to safeguard the best interests of the former client.

8. **Prior Personal or Business Relationships.** A social worker should exercise caution before engaging in a professional relationship with an individual with whom the social worker had a previous personal or business relationship.

9. **Social Worker Responsibility.** A social worker shall be solely responsible for acting appropriately in regard to relationships with clients or former clients. A client or a former client's initiation of a personal, sexual, or business relationship shall not be a defense by the social worker for a violation of §113.C.1.-8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§115. Client Confidentiality

A. **Written Informed Consent.** A social worker shall protect all information provided by or obtained about a client. Client information includes the social worker's personal knowledge of the client and client records, written or electronic. Except as provided herein, client information may be disclosed or released only with the client's written informed consent. The written informed consent shall explain to whom the client's information will be disclosed or released and the purpose and time frame for the release of information.

B. **Release of client information without written consent.** A social worker may disclose client information without the client's written consent only under the following circumstances:

1. where required by federal or state law, including mandatory reporting laws, requiring release of client information;

2. where the treating social worker has made a clinical judgment that a client has communicated a significant threat of physical violence against an identifiable victim(s), with the apparent intent and ability to carry out the threat. In such case, the social worker has a duty to warn which is discharged by reasonable efforts to communicate the threat to the potential victim(s) and to notify law enforcement authorities in the vicinity of the client and the victim(s). See La. R.S. 9:2800.2;

3. where one of the enumerated exceptions to the healthcare provider-patient privilege, as specified in Article 510 of the La. Code of Evidence is applicable and the social worker is being required to give testimony at trial (hearing) or at a legally authorized deposition. See Article 510(E) of the La. Code of Evidence;

4. where the social worker is the subject of a malpractice or professional negligence claim relating to a client or former client who is claiming damage or injury; the social worker may provide such information that is directly and specifically related to the factual issues pertaining to the social worker's alleged liability. However, in such a case, information concerning the client's current treatment or condition may only be disclosed pursuant to testimony at trial or legally authorized discovery methods. See Article 510(F) of the La. Code of Evidence;

5. where the social worker is required to address allegations of a complaint brought by a client or former client which are the subject of adjudication or disciplinary hearing involving the social worker;

6. where the Louisiana State Board of Social Work Examiners issues a lawful subpoena to a social worker and the Board provides adequate safeguards to maintain confidentiality of client information or identify such as prescribed in La. R.S. 13:3715.1(J);

C. **Release of client records without written consent.** A social worker may release client records without the client's written consent under the following circumstances:

1. where a client's authorized representative consents in writing to the release;

2. where mandated by the federal or state law requiring release of records;

3. where circumstances described in §115.B and §115.B.4 apply and the social worker is lawfully issued and served with a subpoena duce tecum which complies with the formalities prescribed in La. R.S. 13:3715.1.

4. where the circumstances described in Rule 115.B.5. and Rule 115.C.6. apply and the social worker received a lawfully issued subpoena from the Louisiana State Board of Social Work Examiners.

D. **Limits of Confidentiality.** The social worker shall inform the client of the limits of confidentiality as provided under applicable law. Confidentiality limits shall include, but are not limited to, the following situations:

1. where circumstances giving rise to the list of exceptions to the healthcare provider-patient privilege listed in the La. Code of Evidence Article 510;

2. where communications to the social worker reveal abuse or neglect of children and elders which impose an obligation on social workers as mandatory reporters under the Louisiana Children's Code Article 609, La. R.S. 14:403, and La. R.S. 14:403.2;

3. where communications to the social worker relate to abuse or neglect of residents of healthcare facilities which impose duty to report under La. R.S. 40:2009.20;

4. where the social worker has a duty to warn in relation to communications of threats of physical violence under La. R.S. 9:2800.2;

5. where the social worker has been appointed to conduct an evaluation for child custody or visitation by the court or where prior communications to the social worker relate to the health conditions of a client(s) who are parties to proceedings or custody or visitation of a child and the condition has substantial bearing on the fitness of the person claiming custody or visitation.

E. **Confidentiality and Minor Clients.** In addition to the general directive in Rule 115.D., a social worker must inform a minor client, at the beginning of a professional

relationship, of any laws which impose a limit on the right to privacy of a minor.

F. Third Party Billing. A social worker shall provide client information to a third party for the purpose of payment for services rendered only with the client's written informed consent. The social worker shall inform the client of the nature of the client information to be disclosed or released to the third party payor.

G. Continued Privacy of Information. A social worker shall continue to maintain confidentiality of client information upon termination of the professional relationship, including upon the death of the client, except as provided under applicable law.

H. Recording/Observation. A social worker shall obtain the client's written informed consent before the taping or recording of a session or a meeting with the client, or before a third party is allowed to observe the session or meeting. The written informed consent shall explain to the client the purpose of the observing, taping or recording, how the taping or recording will be used, how it will be stored and when it will be destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§117. Conduct

A. Impairment. A social worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to safely practice.

B. Mind or Mood Altering Substances. Unless permissible by state law, a social worker shall not dispense medication or controlled substances to a client, or accept these substances from a client for personal use or gain. In an appropriate setting, a social worker, may disperse medication to a client provided that the medication was prescribed by a licensed physician who has specifically authorized the social worker to disperse the medication. The social worker may accept medication or controlled substances from a client for purposes of disposal or to monitor use. Under no circumstances shall a social worker offer alcoholic beverages or mood altering substances to a client.

C. Investigation. All social workers shall cooperate with a social work Board investigation of any social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§119. Representation to the Public

A. Use of Social Worker Designation. A social worker shall use only the social worker designation to which they are entitled. Such designation shall be used after the social worker's name and in all written communications relating to social work practice, including any advertising, correspondence, and client records.

B. Information to Clients or Potential Clients. A social worker shall provide accurate and factual information concerning the social worker's credentials, education, training, and experience upon request from a client, potential client or supervisee. A social worker shall not misrepresent directly or by implication the social worker's license,

certificate, registration, degree, and/or professional qualifications in any oral or written communication or permit or continue to permit any misrepresentations by others. A social worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the social worker is associated.

C. Restriction on Social Work Designation. Social workers, regardless of the license, certificate, or registration, shall not use such designation as a claim, promise, or guarantee of successful service, nor imply that the holder has competence in another service. A social worker must not misrepresent his/her qualifications, training or experience. If a social worker engages in advertising, his/her credentials must be presented factually.

D. Display of Credentials. A social worker shall conspicuously display a current license, certificate, or registration issued by the Board at the social worker's place of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§121. Fees and Billing Practices

A. Fees and Payments. A social worker who provides a service for a fee shall inform a client of the fee at the initial session or meeting with the client. Payment arrangements must be made at the beginning of the professional relationship. If other services are necessary during the course of the professional relationship, the full fee for those services must be negotiated with the client, their legal guardian, or other authorized representative prior to the service being rendered. A social worker shall provide, upon request from a client, a client's legal guardian or other authorized representative, a written explanation of all charges for any services rendered.

B. Necessary Services. A social worker shall bill only for services which he/she has provided. A social worker shall provide only services which are necessary. If fees are to be charged for cancellation or failure to appear for an appointment, a clear description of that policy must be provided to the client in advance of its implementation.

C. Referrals

1. A social worker shall neither accept nor give a commission, rebate, fee split or other form of remuneration for the referral of a client.

2. A social worker shall not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the social workers' employer or agency without employer or agency approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§123. Evaluation and Research

A. Protocol. When undertaking research activities, the social worker shall abide by accepted protocols for protection of human subjects.

B. Informed Consent. A social worker must obtain a client's or a client's legal guardian's written informed consent

for the client to participate in a study or research project. The researcher should explain in writing the purpose of the study or research, as well as the activities to be undertaken by the client, should the client agree to participate in the study or research project. The social worker must inform the client of the client's right to withdraw from the project at any time.

C. Participant Protection and Confidentiality. The social work researcher should protect participants from unwarranted harm or damage as a result of the research, and should avoid conflict of interest or dual relationships with participants. The participant's confidentiality or anonymity should also be fully explained and protected.

D. Evaluation Reports. Social work researchers must report evaluation and research findings accurately and truthfully. Participants in research should be informed of the results of the research in which they have participated if they so desire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

Chapter 3. General Provisions

§301. Definitions

Board Approved Supervision Workshop—this workshop shall be pre-approved by the Board. At least ten (10) clock hours required for workshop to be acceptable.

Clinical Social Work Practice—the practice of clinical social work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of prevention, assessment, diagnosis and treatment of mental, emotional, and behavioral and addiction disorders. Treatment methods include the provision of individual, marital, couple, family, and group psychotherapy. The practice of clinical social work may include, but is not limited to, private practice, employee assistance and addiction services.

Client—the individual, couple, family, group, organization, or community that seeks or receives social work services.

Continuing Education—education and training, which are oriented to maintain, improve or enhance social work practice.

Continuing Education Contact Hour—a sixty (60) minute clock hour of instruction, not including breaks or meals.

Conviction—conviction of a crime by a court of competent jurisdiction and shall include a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered on admission of guilt, a no contest plea, a plea of nolo contendere, and a guilty plea.

Counseling—a method used by social workers to assist individuals, couples, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

Credentialed—can be the registration (RSW), certification (GSW) or license (LCSW) regulated by the Louisiana Social Work Practice Act.

Detrimental to the Client—an act or omission of a professional responsibility that is damaging to the physical, mental, social or financial status of the client.

Examination—a standardized test or examination of social work knowledge, skills, and abilities, which has been approved by the Board.

Felony—criminal conduct punishable by imprisonment at hard labor or as otherwise defined as a felony by this state or any other state or by federal law.

Good Moral Character—the aggregate of qualities evidenced by past conduct, social relations, or life habits, which actually provide persons acquainted with the applicant a basis to form a common favorable opinion regarding the social worker's ethics and responsibility to duty.

Gross Negligence—in the practice of social work, means conduct by either act or omission involving a legal or professional duty about which the social worker displays conscious indifference and where the consequences of such conduct could adversely affect the rights or welfare of those persons to whom the social worker owes the duty.

Independent Practice—means practice of social work outside of an organized setting, such as a social, medical, or governmental agency, after completion of all applicable supervision requirements, in which the social worker assumes responsibility and accountability for services provided.

Private Practice—an activity characterized by contracting directly and receiving direct payment from clients or agencies to provide clinical services, educational services, consultation, research or supervision, as an autonomous practitioner solely responsible for the welfare of the client and for the services rendered.

Psychotherapy—the use of treatment methods utilizing a specialized, formal interaction between a social worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained and sustained to understand unconscious processes, intra personal, interpersonal and psychosocial dynamics. Psychotherapy requires the application of diagnosis and treatment to mental, emotional, and behavioral disorders, conditions and addictions.

Social Work Employee—such status requires that the social worker provide direct or indirect social work services, receive remuneration from an employer for these services, and that the social worker's employer deduct federal withholding tax, FICA or other retirement benefits from the salary or wages.

Supervisee—any person under the supervision of a credentialed social worker. The supervisee may be an applicant for social work credentials, an employee under the supervision of the LCSW, GSW or RSW, or a person who contracts with the licensed social worker for supervision.

Supervision within an Agency—the professional relationship between a supervisor and a social worker that provides evaluation and direction over the services provided by the social worker and promotes continued development of the social worker's knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

Supportive Counseling—the methods used by social workers to help individuals create and maintain adaptive patterns. Such methods may include building community resources and networks, linking clients with services and resources, educating clients and informing the public,

helping clients identify and build strengths, leading client and community groups, and providing reassurance and support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§303. Practice

A. Social Work Practice. Any person practicing social work without license, certification, provisional certification, or registration is subject to the provisions of R.S. 37:2720, including injunctive proceedings and prosecution.

B. Independent and Private Practice. Only a licensed clinical social worker may engage in the independent and private practice of social work.

C. Graduate Social Workers, Provisional Graduate Social Workers and Registered Social Workers shall not:

1. contract directly with individuals, couples, families, agencies or institutions for clinical services, consultation, supervision or educational services;
2. bill for services rendered;
3. receive direct payment for services;
4. claim to be licensed or in private practice.

D. Graduate Social Workers and Provisional Graduate Social Workers may:

1. practice clinical social work within an agency under the supervision of a licensed clinical social worker and shall meet the supervision requirements of Chapter V. Minimum Supervision Requirements. Rule No. 505.

E. Applicants for registration, certification, or licensure who indicate on their application that they have been employed for more than 30 days as a social worker in the State of Louisiana are subject to the provisions of R.S. 37:2720.

F. An applicant who meets all the requirements of R.S. 37:2706, 2707, or 2708 and who has worked more than 30 days as a social worker in the State of Louisiana and who has not otherwise violated any part of R.S. 37:2701-2723 or its Rules, may be offered the following options in the form of a consent order and agreement to resolve the situation:

1. completion of ten (10) pre-approved continuing education hours in ethics to be completed within three (3) months of issuance of the registration, certification or license, in addition to the 20 clock hours of continuing education required for the annual renewal of the registration, certification or license, or
2. passing score on an open book examination on the Louisiana Social Work Practice Act and the Rules, Regulations and Procedures, to include the Standards of Practice for Social workers.
3. the consent order and agreement shall not be considered disciplinary action and shall not be reported to the professional organizations or published in the Board's newsletter.

G. In accordance with R.S. 37:2709, which states in part that the license, certificate, provisional certificate, or registration shall be kept conspicuously posted in the office or place of business at all times, it is permissible to post the original certificate of license, certification, provisional certification, or registration or a copy of the original certificate of license, certification, provisional certification or registration, or the current identification card received

from the Board upon renewal of the license, certification, provisional certification or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§305. Qualifications for Registration, Certification, Licensure

A. Registered Social Worker (RSW)

1. Must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a bachelor of social work, bachelor of arts, or bachelor of science degree from an undergraduate social work program, accredited by the Council on Social Work Education.

B. Graduate Social Worker (GSW)

1. Must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.
3. The applicant shall obtain a passing score on an examination approved by the Board.
4. Grandfather Period: The Board shall waive the examination requirement for applicants who submit a completed and notarized application and appropriate fee at any time within one calendar year from January 1, 2000.

C. Provisional Graduate Social Worker (Provisional GSW)

1. The Board may issue provisional certification to an applicant who meets all requirements for the GSW certification except for passing the examination approved by the Board.
2. The individual may hold the provisional certificate for up to three (3) years from the date of issuance of the original certificate provided the individual takes the examination approved by Board at least once each year.
3. It is the responsibility of the Provisional GSW to submit proof of examination to the Board office once each year of eligibility.

D. Licensed Clinical Social Worker (LCSW)

1. The applicant must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.
3. The applicant shall submit documentation verifying at least 36 accumulated months of full-time post graduate social work practice on a form provided by the Board.
4. The applicant shall submit documentation verifying at least 24 accumulated months of supervision post graduate social work experience in accordance with the Board's supervision rules and on the form provided by the Board.
5. Supervised experience must be under the supervision of a Board approved clinical supervisor.
6. The applicant shall obtain a passing score on an examination approved by the Board.

E. Board certified social workers who hold valid, current licenses on January 1, 2000, must submit a notarized affidavit to the Board on or before December 31, 2000, requesting that their status be changed to licensed clinical social worker. Board certified social workers who do not

submit a notarized affidavit by December 31, 2000, will be assigned the graduate social work status effective January 1, 2001, and shall be subject to the qualifications listed in R.S. 37:2708 to change their status after January 1, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§307. Administration of Examination

A. Examination

1. The social work examination shall be administered at least once per calendar year at a time and place designated by the Board.

2. The Louisiana State Board of Social Work Examiners recognizes the examinations of the American Association of State Social Work Boards as the national examination for social workers.

3. Examination Pass Point. The Board shall administer and grade a written examination or employ a national recognized testing firm to do the same. Whichever method is used, the Board will consistently strive to improve reciprocity with other states having licensure comparable to Louisiana. A pass score of 70 will be used to grade the examination for the licensed clinical social worker and the graduate social worker.

B. Retake of Examination

1. Applicants must complete a Retake Application and submit the retake fee to the Board office.

2. If more than eighteen months has lapsed since the last examination an applicant for retake must submit an updated application for license.

3. Applicants for the LCSW license must submit an Employer Verification Affidavit for each place of employment after receipt of the MSW degree.

4. The Board shall observe the retake policy of the testing service.

C. Examination Review Policy. The Board may allow candidates to review failing examinations, at applicant's expense, in accordance with the rules of the American Association of State Social Work Boards.

D. Preparatory Course

1. The Board shall not endorse nor in any way participate in the operation or planning of any preparatory or cram course allegedly preparing applicants for the social work examination.

2. No former member of the Board of examiners may take part in the development, sponsorship or administration of any preparatory or cram course offered to candidates for the social work examination for two (2) years after said Board member's term of office has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§309. Application Procedure

A. Application forms and instructions may be obtained by making a written, telephone or electronic request to the Board office.

B. Applications for license, certification or registration are reviewed and approved by the Board at regularly scheduled Board meetings.

C. Applications must be submitted to the Board office at least seven days prior to the Board's meeting to be eligible for consideration.

D. The Board shall refuse to consider any application not complete in every detail, including submission of every document required by the application form. At the Board's discretion a more detailed or complete response to any request for information set forth on the application form may be required.

E. The application fee for licensure, certification, provisional certification, or registration must be submitted in the form of a money order or certified check.

F. Applicants for the LCSW license must submit an Employer Verification Affidavit for each place of employment in Louisiana after receipt of the MSW degree.

G. Applicants for the LCSW license must submit proof of 24 months of accumulated supervised experience on the forms provided by the Board.

H. Non-resident applicants may submit verification of 36 months of out-of-state accumulated social work employment to qualify for the LCSW license.

I. The official transcript from a university accredited by the Council on Social Work Education verifying receipt of a master's degree must be received directly from the university.

J. The application for licensure, certification, provisional certification and registration requests the applicant's social security number for identification purposes; however, submission is optional.

K. Procedure for social workers with Felony Convictions.

1. The burden of proof for submitting the requested documentation is the responsibility of the BSW or MSW applicants in order to convince the Louisiana State Board of Social Work Examiners that he/she has good moral character and fitness to practice social work.

2. The BSW or MSW applicant should collect and deliver the following documents to the Board office promptly:

a. copies of all court records containing information of the conviction and the imposition of sentence;

b. the current name, address, and telephone number of the judge who imposed sentence and who presided at the trial and/or accepted any plea upon which the felony conviction was based;

c. any documentation or records which reflect the term of any probationary period, the conditions of probation and the fulfillment and completion of all terms and conditions of probation;

d. the current name(s), addresses and telephone numbers of any probation officers or persons of similar title or job function to whom the applicant has reported or who has any information concerning the applicant's conduct during any probationary period;

e. if any form of restitution to a victim or victims was part of a sentence imposed or a condition of probation the applicant must provide the names, current addresses and telephone numbers of any such victim or victims and an affidavit of the applicant that affirms that all required restitution has been completed;

f. if the sentence included any form of imprisonment, residence at a half-way house, other forms of

correctional and/or treatment facilities, the applicant must provide the complete address, names and current addresses of any persons having information relating to the satisfactory completion of any such prison term, residence or treatment, and any related documents. In the event that medical, psychiatric, psychological, substance or alcohol abuse evaluation, treatment and rehabilitation was in any way part of the sentence or a term or condition of probation, the applicant will execute any releases which may be required for the Board to obtain information. Such information obtained will be maintained by the Board on a confidential basis;

g. all records or documents relating to any arrest or conviction of any felony or misdemeanor which has occurred at any time since the applicant's original felony conviction or which occurs at any time during which the application is pending or being investigated (this requirement is an ongoing responsibility of the applicant);

h. any documents, records, or information which the applicant wishes to present in support of his or her application which shows or evidences rehabilitation, positive social contributions, awards, commendations, social or lifestyle adjustments, positive treatment outcomes, employment or academic evaluations, volunteer work or any other area in which the applicant participated which would reflect on the applicant's good moral character and fitness to practice social work. (The applicant should provide the names, current addresses and telephone numbers of any references or persons having information in support of the application. While information in support of an application which occurred prior to the conviction may be submitted, the Board will place greater emphasis on supporting documentation and information concerning events which have occurred since the felony conviction);

i. true copies of any licenses, certificates to practice or similar documents issued by any Board or licensing authority of any other state or the state of Louisiana obtained by the applicant since the date of the felony conviction. The applicant should provide a complete listing of any college, graduate school, trade or business school and employers to whom he or she has made application since the date of the felony conviction. This request includes any applications which were denied for any reason, including the felony conviction.

3. BSWs and MSWs should be aware of the following:

a. any delay in providing the requested information will delay the Board's action on the application;

b. providing any false or misleading information, being evasive, concealing or making material omissions, or failing to cooperate shall form a basis for the denial of the application;

c. in the event that the application is denied by the Board, the applicant may request a Compliance Hearing provided the application for such a hearing is made in writing within thirty days after the applicant receives the notice of the denial of the application. The request shall contain the applicant's receipt of the notice of the denial of the application, and the applicant's grounds for opposition to the denial of the application. The applicant is further aware that at such a hearing the applicant may be represented by

legal counsel and the applicant bears the burden to establish that he or she meets the criteria for licensure;

d. the intent of the above enumerated items is to obtain the information upon which the Board will evaluate the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§311. Renewals and Cancellation

A. Renewal notices are mailed on June 20 of each year. The renewal fee is due between June 20 and November 30 of each year.

B. Licensed Clinical Social Workers must list those Graduate Social Workers under their supervision for licensure requirements and agency setting on their renewal form.

C. Twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to June 30 of each year.

D. A lapsed license fee may be paid between December 1, and February 28, of each year and the license, certificate or registration will be renewed. (The lapsed fee equals twice the amount of the renewal fee.)

E. Without payment of the lapsed fee, the license, certification or registration is canceled after February 28, and a certified notice of cancellation is mailed.

F. When a LCSW license is allowed to lapse after February 28, the applicant will be required to pay the appropriate application and examination fees and retake and pass the examination. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application, subject to the examination procedures, and pay those required fees. However, such an applicant need not duplicate the two years of social work supervision or proof of graduate degree and may be reinstated upon successful completion of the examination and payment of the appropriate fee to the Board.

G. When a GSW certification is allowed to lapse after February 28, the applicant will be required to pay the appropriate application and examination fees and retake and pass the examination. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application, subject to the examination procedures, and pay those required fees. However, such an applicant need not duplicate the proof of graduate degree and may be reinstated upon successful completion of the examination and payment of the appropriate fee to the Board.

H. When a RSW registration is allowed to lapse after February 28, the applicant will be required to pay the appropriate application fee. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application and pay the Registration fee to the Board.

I. It is the social worker's responsibility to keep the Board informed of his/her current mailing address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§313. Fees

A. The fees charged by the Louisiana State Board of Social Work Examiners shall be as follows:

Application Fee for LCSW	\$100.00
Application Fee for GSW	75.00
Application Fee for RSW	50.00
Application fee for retake of LCSW	50.00
Application fee for retake of GSW	50.00
Renewal Fee for LCSW	75.00
Renewal Fee for GSW	50.00
Renewal Fee for RSW	25.00
Late Renewal Fee for LCSW (after November 30,)	150.00
Late Renewal Fee for GSW (after November 30,)	100.00
Late Renewal Fee for RSW (after November 30,)	50.00
Directory Fee	25.00
Registration Fee for Supervision for LCSW License	35.00
Fee for Returned Checks	25.00
Reissuance of lost or destroyed certificate	25.00
Seal of Authenticity	5.00
Reissuance of lost or duplicate identification card	5.00
Fee for mailing labels	\$0.03 per label plus postage & handling
Fee for mailing labels	\$0.25 per page plus postage & handling
Fee for Board publications	5.00 each plus postage & handling
Fax transmissions	5.00 first page 1.00 each additional page

B. Subpoena Fees. Fees must be submitted in advance for issuing a subpoena. A written request must be submitted to the Board office, listing the name and address of the individual to be subpoenaed.

Subpoenas issued in East Baton Rouge Parish	\$50.00
Subpoenas issued outside of East Baton Rouge Parish	50.00 plus \$0.30 per mile for service
Written verification of license, certificate or registration	5.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§315. Board Members

A. Officers. The Board shall elect annually at the June Board meeting, a Chairman, vice-chairman, and secretary/treasurer whose responsibilities are included in the Policy Manual.

B. Meetings

1. The Board shall schedule monthly meetings in December for the following calendar year.

2. A schedule of meeting dates shall be published in the Board newsletter.

3. Any Board member who misses three (3) Board meetings, barring extenuating circumstances approved by the Board, during the course of one calendar year shall resign from the Board.

4. Special travel requests, other than regularly monthly meetings, must be approved by the Board at regular monthly meetings.

C. Expense Reimbursement

1. Expenses charged to the Board must be consistent with the time frame and mission of Board meetings and other function. Expenses which are exceptions to this policy may be paid with justification and approval by the Board.

2. Board members shall be reimbursed for actual traveling, incidental, and clerical expenses incurred while engaged in official duties.

a. Mileage expenses shall be reimbursed at the official state rate.

b. Airfare expenses must be at the state contract rate or economy class rate when contract rates are not available.

c. Lodging and meals shall be reimbursed at actual cost if receipts are submitted. Without receipts, lodging and meals shall be reimbursed at the appropriate state rate.

d. Incidental expenses are defined as telephone calls, fees for storage and handling of equipment, tips for baggage handling, parking fees, ferry fees, and road and bridge tolls.

3. Registration fees for conferences and room rental for a conference meeting are reimbursed at actual cost, but must be approved by the Board at a regular monthly meeting.

4. Clerical expenses for individual Board members shall be pre-approved by the Board at a regular monthly Board meeting.

D. Vacancies. The Board shall notify all social workers and professional social work organizations of vacancies on the Board, the qualifications required to serve, and the process for nominations by placing a notice in the board's newsletter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§317. Continuing Education Requirements

A. The purpose of continuing education is to protect the public by:

1. ensuring that the practitioner has formal opportunities to upgrade and update professional knowledge and skills; and

2. encouraging the practitioner to learn from other professionals; and

3. assisting the professional to expand his/her expanded professional resource network.

B. Consequently, approved learning situations emphasize opportunities for professional interaction and relationship-building.

C. Any credentialed social worker may be audited, so it is important to keep good records of continuing education experiences for at least one year and to be able to explain the nature of the content covered.

D. Random audits are done to ensure that the continuing education mandate is applied fairly to all credentialed social workers.

E. The collection period for continuing education hours is July 1, through June 30 of each fiscal year.

F. Continuing education hours are pro-rated as follows during the initial year of registration, certification or licensure:

Month Received	# Hours Required
April, May, June	0
July, August, September	20
October, November, December	15
January, February, March	10

G. Continuing education hours collected in the month of June may be used for the current collection period or may be carried over to the next collection period.

H. In the case of extenuating circumstances, when the individual does not fulfill the continuing education requirements, the individual shall submit a written request for extension to the Board for consideration.

I. Continuing Education Requirements for the Registered Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date including three (3) clock hours in social work ethics once every two years.

J. Continuing Education Requirements for Graduate Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date, including three (3) clock hours in social work ethics once every two years.

K. Continuing Education Requirements for Licensed Clinical Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date to include:

a. three (3) clock hours in social work ethics once every two (2) years;

b. ten (10) clock hours in social work supervision, once every five (5) years to maintain the Board approved supervisor status; and

c. ten (10) clock hours each year shall be clinical content including diagnosis and treatment.

2. for the collection period July 1, 1999 through June 30, 2000 only, LCSWs must collect twenty clock hours of continuing education in programs approved by the Board to include:

a. three (3) clock hours in social work ethics once every two years;

b. ten (10) clock hours in social work supervision, once every five (5) years to maintain the Board approved clinical supervisor status, and

c. five (5) clock hours of clinical content, including diagnosis and treatment.

L. The following learning forums are approved for continuing education:

1. educational offerings (workshops, conferences, courses, seminars, teleconferences, telecourses, and Internet courses) sponsored by professional organizations such as: Louisiana Council for Social Work Education, National

Association of Social Workers, National Federation of Clinical Social Work Society, Council on Social Work Education, American Medical Association, American Psychiatric Association, American Psychological Association, American Hospital Association and American Association of State Social Work Boards or other appropriate professional organizations. Workshops with a social work focus which are offered by individual social workers and approved by one of the above professional organizations for CE credits are also acceptable;

2. distance learning (teleconferences, telecourses, and Internet courses) cannot exceed a total of 8 clock hours of the required 20 clock hours of continuing education required annually for renewal of social work credentials;

3. continuing education activities or academic courses provided by accredited schools of social work. Academic course work counts per actual class hour;

4. presentations of social work content at professional conferences, staff development meetings, and other appropriate forums in which you are the primary presenter. These presentations count 1½ times the actual time of the presentation, in order to give credit for preparation time. (Example: You prepare a presentation on Holiday Stress that last one (1) hour. You will receive 1½ hours continuing education credit for this presentation.) Presentation and preparation time may only be counted once for each topic. Academic preparation and teaching of social work content (undergraduate or graduate) may be counted once in the same manner, unless the course has been revised to include substantially new content and text books. Please be prepared to provide the exact nature of the content and presentation;

5. teleconferences offered via public television which deal with social work content, are presented by a creditable and knowledgeable presenter, and are aimed at a professional audience;

6. attendance at staff development presentations with a social work focus (such as staff meeting with a formal and in-depth presentation on working with clients who present borderline symptoms). Please be prepared to provide the dates and nature of the content covered. Case based staffing meetings are not included as appropriate continuing education experiences;

7. attendance at professional social work meetings, American Association of State Social Work Boards (AASSWB) item writing workshops, symposiums, panel discussions, or conferences sponsored by the professional associations suggested in Rule #117. L. 1. Please be prepared to provide the dates and nature of content covered;

8. formal study groups of three or more participants with peer supervision. Names and work addresses, and telephone numbers of group members should be submitted to the Board office. Study groups should maintain records of topics, attendance, meeting times, and presenters;

9. contracted professional consultation which the licensee receives. Please provide the paid consultant's name, address, and telephone number;

10. preparation of substantial written material with a social work focus which requires literature search, research, and explication of social work content (such as writing a social work article or book for publication, or a major grant application). Please provide specific information about the nature of the written work, the effort required, and the

publisher or funding agency. These activities may be counted for no more than five (5) hours continuing education;

11. social workers should be doing consistent independent study. However, such study does not meet the goal of increasing professional relationships and networks. Consequently self-study programs are approved only for rural areas or if the licensee is physically incapacitated. All self-study programs must receive pre-approval from the Board:

M. The intent of the continuing education requirement is to enhance competence, not to cause undue expense or burden to the credentialed social worker. The Board encourages social workers to develop learning options which enhance their abilities to do their various social work roles. For instance:

1. a study group might have presentations from professionals who represent different community resources for clients, or might have formal book reviews and discussions of substantial social work books;

2. a staff development meeting might examine recent federal or state policies which affect social work services, or ways to increase cultural diversity and sensitivity among staff;

3. a social work faculty meeting might have a formal presentation on how to work with students who have diagnosed mental health conditions;

4. an administrator might contract for consultation on how to deal with staff who are drug or alcohol impaired.

N. The following learning situations will not be accepted:

1. banquet speeches;

2. non-social work content courses not directly related to enhancement of social work skills or performance as a social work employee. (Example: Computer, financial or business management courses designed to enhance the business of private practice);

3. staff orientation, administrative staff meetings and case management meetings;

4. book reports or critiques of professional journal articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§319. Reciprocity and Endorsement

A. Reciprocity with other states and territories having comparable licensure, certification or registration is permissible as approved by the Board.

B. In cases wherein no formal reciprocity agreement has been made, the Board may endorse the license, certification or registration of a social worker moving to Louisiana from a state or territory with equivalent license, certification or registration standards.

C. The written examination may be waived by the Board and a Louisiana license or certification issued if the following specific requirements are met:

1. the applicant is currently licensed or certified to practice social work in another state with standards equivalent or greater to those of Louisiana;

2. the applicant presents evidence that he/she meets the qualifications of L.S. 37:2701-2723;

3. the applicant has passed the Advanced, Clinical, or Intermediate examination of the American Association of State Social Work Boards in order to secure current social work license or certification in the state of Louisiana;

4. the applicant submits the required fees;

5. the applicant submits the completed application for endorsement;

6. the Verification of License in Other State Form is completed by the state in which the applicant has current licensure or certification and submitted to the Louisiana Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§321. Certificate Lettering

A. Only the individual's name will be placed on the certificate. No degrees, honors, or other information shall be added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§323. Causes for Disciplinary Action

A. Disciplinary action, including denial, suspension, revocation and other disciplinary options available to the Board are set out in LSA-R.S. 37:2717, these Rules, Standards, and Procedures and the Louisiana State Administrative Procedure Act.

B. The Board will notify the professional community within 30 days of any disciplinary action including the discipline, the social worker's name, location, offense and sanction imposed. A notice of the disciplinary action also will be published in the Louisiana State Board of Social Work Examiners' Newsletter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

Chapter 5. Minimum Supervision Requirements

§503. GSWs Seeking the LCSW Credential

A. GSWs seeking the LCSW credential must receive a minimum of 24 accumulated calendar months of supervised full-time postgraduate social work practice under the supervision of a Board-Approved Clinical Supervisor (BACS).

B. A calendar month is counted from the first working day of the month to the last day of that month. GSWs may obtain a list of Board-Approved Clinical Supervisors (BACS) from the Board Office.

C. Face-to-face supervision for licensure must total at least 96 hours.

D. Supervision segments of no fewer than 30 minutes will be counted toward meeting the supervision requirement.

E. The requirement for supervision is at least 4 hours per calendar month with at least two different supervision contacts per month.

F. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two (2) hours per

group. No more than five (5) supervisees may be involved in supervision groups.

G. The supervisee and supervisor must keep accurate records of both the dates of supervision times and the hours spent in supervision for potential audit of records. This information must be submitted to the Board office on the supervision form entitled *Record of Supervision*.

H. Supervised work experience eligible to be counted towards licensure begins on the first working day of the first full calendar month after the first supervisory session.

I. School social workers may only count supervision that occurs during the full months in which they are employed in a social work position.

J. Supervisees and supervisors must submit on a timely basis all required forms as designated in the Louisiana State Board of Social Work Examiners' *Supervision for Professional Development and Public Protection: A Guide* (available from the Board Office).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§505. The GSW Not Pursuing the LCSW Credential

A. The GSW who is not pursuing LCSW licensure, or who is fulfilling the experience requirement toward licensure, may deliver those clinical services which constitute psychotherapy only under the supervision of an LCSW. Supervision under these circumstances does not require that the supervising LCSW have the Board Approved Clinical Supervisor (BACS) designation.

B. Regardless of the time spent in clinical practice, the GSW must be supervised in accordance with the following rules.

C. The employing agency ultimately is responsible and accountable for services rendered by the GSW; therefore, the agency may provide access to LCSW supervision to ensure quality of services. The GSW may independently secure LCSW supervision.

D. On-site supervision by LCSWs is the preferred method of supervision.

E. Supervision may be rendered through individual supervision, group supervision, telephone contact or by secure electronic media to meet the needs of the agency and to provide timely services to clients in emergencies.

F. Supervision for GSWs rendering clinical services constituting psychotherapy shall total a minimum of two hours per month, counted in increments of no fewer than 30 minutes, for the duration of the time that the GSW is rendering psychotherapeutic services.

G. The supervisee and supervisor must keep accurate records of both the dates of supervision, times and hours spent in supervision for potential audit of records. The Board at its discretion may ask for a copy of the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§507. Board-Approved Clinical Supervisor

A. To qualify for the Board-Approved Clinical Supervisor (BACS) designation, a social worker must:

1. hold the LCSW license;

2. verify at least 3 years of full-time social work experience at the LCSW level;

3. submit two letters of reference to the Board from other professionals (one of whom should be an LCSW) who are familiar with the licensee's work, including supervision skills;

4. participate in a Board Orientation Workshop;

5. participate in a Board pre-approved workshop on the theory and techniques of supervision of at least 10 hours duration;

6. all requirements must be met before the social worker becomes a BACS.

B. To continue the BACS designation in good standing, the social worker must:

1. maintain LCSW licensure;

2. appropriately conduct all supervisory duties explicated in the Louisiana State Board of Social Work Examiners' *Supervision for Professional Development and Public Protection: A Guide* (available from the Board Office);

3. participate in a Board pre-approved workshop on the theory and techniques of supervision of at least ten (10) hours duration every five (5) years (counting from the date of first receiving the BACS designation);

4. failure to comply with all regulations explicated in the Board's *Supervision for Professional Development and Public Protection: A Guide* may result in the Board lifting the BACS designation from the LCSW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

Chapter 7. Procedural Rules

§701. Authority

Consistent with the legislative purpose specified in LSA-R.S. 37:2701 through 2723, and to protect the safety and welfare of the people of this state against unauthorized, unqualified and improper practice of social work, the following rules, standards, and procedures are established under the Board's rule making authority of LSA-R.S. 37:2705(C), 37:2717(C)(E) and LSA-R.S. 49:952.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§703. Complaint Origination

A. The Board is authorized to receive from any person a complaint or complaints against social workers licensed, certified, provisionally certified, or registered under LSA-R.S. 2701, *et seq.*, (hereinafter referred to as Social Workers), as well as complaints against any level of social work applicant. Throughout these rules, the term license or licensed includes the term certification, provisional certification, and registration and also applies to any social workers who are certified, provisionally certified, or registered. The Board is also authorized to initiate such complaint(s) when the Board otherwise possesses or obtains information which satisfies the Board that such a complaint is warranted.

B. Any complaint bearing on a social worker's professional competence, conviction of a crime,

unauthorized practice, the assisting of unauthorized practice, mental competence, neglect of practice, or violation of the Social Work Practice Act (including these rules and standards), or for any of the causes specified for disciplinary action in LSA-R.S. 37:2717 shall be submitted to the Board in a timely manner and in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§705. Investigation Procedures

A. When the Board receives a written complaint, report, or other information which, if established as being true, would constitute just cause under the law for revocation, suspension, denial of license, or any other form of discipline specified in LSA-R.S. 37:2717(B), the Board may refer the complaint, report or information to the Board Administrator and/or to the Board's designated complaint investigation officer (hereinafter referred to as the CIO). The CIO may be an employee of the Board or provide investigation services under contract with the Board. The Board's Administrator and staff and/or the CIO shall conduct such investigation or inquiry as the Board deems appropriate to determine whether there is probable cause to initiate formal administrative proceedings against the involved social worker. To assist in the investigation, the Board is authorized to issue, as necessary or upon request, such investigative subpoenas as may be required to obtain documents, the appearance of witnesses, or sworn statements or testimony.

B. Except for the notice required by Rule 711.B. and Rule 737.C., all other notices, correspondence or written communication relating to complaints, investigations, notices of investigations, conferences, decisions, orders, etc., may be served on or delivered to the involved social worker, complainant(s), or witnesses by regular mail or, when deemed appropriate or necessary by the Board or its administrator, by personal delivery (service) or other available means. Notices shall be delivered with the designation *Personal and Confidential* clearly marked on the outside of the envelope.

C. Under normal circumstances, the involved social worker will receive prompt written notice from the Board's Administrator of the initiation or pendency of an investigation. The notice shall contain sufficient detail of the nature and the basis of the complaint or other information giving rise to the investigation, as well as a preliminary statement of the possible violations involved. The notice shall also provide the social worker with an opportunity to respond in writing to the complaint or to provide other information relating to the investigation. When such notice, in the judgment of the CIO and/or the Board's Administrator, is likely to prejudice the investigation, the notice may be delayed. Any delay in the notice to the involved social worker beyond the first 20 days of the investigation will require the Board's Administrator to obtain Board approval for any additional delay.

D. Board members as members assigned by the agency to make findings of fact and conclusions of law will not and may not participate in the investigation. No Board member shall accept contact or communicate with a social worker involved in an investigation, any person on behalf of the social worker, legal counsel for any party, the complainant,

witness, or potential witness. If any of these persons attempt to contact a Board member, the Board member shall promptly refer the matter to the Board's Administrator and/or the Board's legal counsel. This restriction conforms with LSA-R.S. 49:960(A) and is not intended to restrict those routine communications which are in no way related to a case under active investigation or adjudication.

E. The investigation and recommended action or report should be completed within 60 days following the date of the Board's written referral for investigation. If the Board's Administrator and/or CIO shows good cause, the Board may extend the time for investigation for a reasonable time not to exceed an additional 60-day period.

F. The Board will not authorize a delay in notice to the involved social worker or an extension of time for concluding an investigation if this action would be inconsistent with the limitations set out in LSA-R.S. 37:21. The Board shall schedule hearings and provide notice of hearings consistent with those statutory limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§707. Disposition of Investigation

A. The Board may, before, during, or following an investigation, or after the filing of an administrative complaint, dispose of any complaint informally through correspondence or conference with the social worker and/or the complainant. This action may occur whether requested by the involved social worker or recommended by the CIO, or at any time as deemed appropriate by the Board. Such informal resolution may take the form of any informal disposition recognized in LSA-R.S. 49:955(D) or any other form of agreement which adequately addresses the complaint or the matter under investigation. Such agreement is binding upon the involved social worker and the Board. When an informal disposition occurs after an administrative complaint is filed with the Board, the agreement requires the concurrence of the assistant attorney general handling the case. This concurrence further requires a certification by the assistant attorney general that the social worker's conduct as specified in the informal disposition documents is consistent with the known evidence which could be presented at an adjudication hearing.

B. Any attempt by the Board to resolve a complaint by informal disposition which does not result in a disposition of the complaint or matter under investigation, will in no way preclude further investigation of that matter or complaint. The participation in any such attempt by the Board or any of its members will in no way disqualify the Board or any of its members from serving on an adjudication hearing panel dealing with an administrative complaint on the same subject matter as the attempted informal resolution. The Board and the hearing panel is authorized to obtain waivers related to their participation in informal disposition procedures signed by the involved social worker and the social worker's legal counsel, if any, prior to its participation in such informal procedures.

C. At the conclusion of the investigation, the Board's Administrator will receive a written report from the CIO and/or the Board's administrative staff. The written report shall provide a summary of the complaint or basis for the

investigation, a general statement of the evidence relating to the investigation and the investigator's determination and recommendation. If the report contains a recommendation that the complaint be dismissed due to a lack of evidence, inadequate legal cause for the filing of an administrative complaint, or for any other reason, the Administrator promptly shall notify the Board chairperson who will, on a rotating basis, designate a Board member to review the complaint, the complete investigative materials of the CIO or the Board's administrative staff, and any investigative reports and recommendations. This review shall include an assessment of the quality and thoroughness of the investigation and the legal and/or factual basis for the recommended dismissal. The reviewing Board member shall promptly report to the Board his or her assessment of the investigation and the basis for the recommended dismissal. Unless the complaint is the subject of an informal disposition as specified in Subpart A. of this Rule, no complaint may be dismissed without Board member review of the investigation and a vote of the Board on the recommendation of the investigator's report. The Board may accept the recommendation of the report and dismiss the complaint or may refer the matter back to the Board's administrator for further investigation as it deems necessary. In the event the Board votes to dismiss the complaint, both the involved social worker and the complainant will be notified in writing concerning the Board's action. Notwithstanding Rule 705. D., no Board member will be disqualified from serving on a hearing panel on a complaint merely because the Board member was designated to review the complaint or participated in a vote related to the recommendation of the dismissal of any complaint.

D. If the investigation report contains a determination that there is probable cause to believe that the involved social worker has engaged or is engaging in conduct, acts, or omissions constituting legal cause under the law, these rules and regulations, or ethical standards for any form of disciplinary action as specified in LSA-R.S. 37:2717, then the Administrator shall promptly notify the attorney general or the assistant attorney general assigned to prosecute such matters on behalf of the state pursuant to LSA-R.S. 37:2717(C). The notice shall deliver to the assistant attorney general all investigative reports, statements, notes, recordings, court records, and other data obtained in the course of the investigation. It will also request the preparation of a draft of an administrative complaint regarding any violations which are disclosed in or suggested by the investigation. The assistant attorney general prosecuting the matter may request and obtain other information from the Board's Administrator, including access to consultants to assess the results of the investigation and prepare a draft of the administrative complaint. The draft of the administrative complaint shall identify the involved social worker and be prepared in the same form and content as the administrative complaint specified in Section 709(B) of these Rules. The draft of the administrative complaint shall be signed by the assistant attorney general and delivered to the Board's Administrator within 30 days of the notice and delivery to the assistant attorney general of the investigation, report and specified materials. The Board's Administrator is authorized to extend the time for the submission of the draft of the administrative

complaint for a reasonable time as requested by the assistant attorney general, provided that such extensions do not foreclose action on the complaint or the scheduling of a hearing due to the limitations contained in LSA-R.S. 37:21.

E. Upon receiving a signed draft of the administrative complaint, the Administrator shall mail a copy of the draft complaint together with a notice letter to the involved social worker. The letter will advise of the intent to file the administrative complaint and give the social worker a reasonable opportunity pursuant to LSA-R.S. 49:961(C) to show compliance with all legal requirements of the social worker's license, or to show that the complaint is unfounded.

F. Should the involved social worker fail to respond within the time provided (which time may be extended by the Administrator upon good cause shown), or if the social worker's response does not satisfactorily demonstrate that the social worker is in lawful compliance or that the complaint is unfounded; the Administrator shall in consultation with the assistant attorney general prepare an original complaint in the form of the draft complaint for filing with the Board. In determining the adequacy of any response submitted by the social worker, the Administrator should consult with the assistant attorney general. The Administrator may also consult with its general legal counsel (also referred to in these procedural rules as independent counsel) on any legal issues relating to the response submitted by the social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§709. Administrative Complaint Procedure

A. An original of the administrative complaint shall be signed and approved by the assistant attorney general and delivered to the Board's Administrator prior to being filed with the Board. The Board's Administrator shall place the administrative complaint on the Board agenda for the next scheduled meeting of the Board. When the Board receives the administrative complaint, the Board will docket the complaint under its designated numbering system and schedule a hearing.

B. The administrative complaint shall identify the involved social worker and any license, provisional license, certificate or registration number. In separately numbered paragraphs, the complaint shall concisely state the material facts and the matters alleged to be proven, including the facts giving rise to the Board's jurisdiction over the respondent social worker, the facts constituting legal cause for the complaint against the respondent under law (including the specification of the Practice Act, the Administrative Procedure Act, the Board's Rules, Standards, and Procedures, or any other statutory law alleged to have been violated by the respondent social worker). The complaint shall request an administrative sanction or relief which the assistant attorney general seeks in the name of the State of Louisiana. It shall bear the name, address and telephone number of the assistant attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§711. Notice of Administrative Complaint and Hearing Scheduling

A. Upon the docketing of the administrative complaint, the Board should schedule the complaint for a hearing before a hearing panel of the Board. This hearing shall take place not less than 30 days nor more than 150 days of the docketing of the complaint, provided that the time for the hearing may be lengthened as the Board deems necessary or appropriate, or upon good cause shown by motion of the attorney general or respondent. Any requests for extension of time to schedule the hearing beyond 150 days after docketing shall be considered the filing of a procedural motion under LSA-R.S. 37:21(A)(5).

B. If the Board finds that public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the Board may enter an order of summary suspension of the respondent social worker's license pending proceedings for revocation or other action in accordance with LSA-R.S. 49:961(C). In that event, the scheduled hearing on the summary suspension shall be noticed and scheduled not more than 45 days after the order of such summary suspension. Scheduling may extend beyond the 45 day period if requested by the involved social worker.

C. The respondent social worker will be served written notice of the administrative complaint; the time, date, and place of the scheduled hearing; and a copy of the Board's Rules, Standards, and Procedures by registered, return-receipt-requested mail, as well as by regular first class mail. The notice will be sent to the most current address for the respondent social worker as reflected in the official records of the Board. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint. If the hearing panel of the Board has been designated at the time of the notice, the notice shall contain the names of the panel members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§713. Response to Complaint, Notice of Representation

A. Within 15 days of service of the complaint (or such longer time as the Board may permit, on motion of the respondent social worker, hereafter called "respondent"), the respondent may answer the complaint, admitting or denying each of the separate allegations of fact or law. The respondent may offer any explanation or assert whatever defense(s) are applicable. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted in the complaint shall be deemed denied.

B. In any adjudication proceeding before the Board, respondent may be represented by an attorney at law duly admitted to practice in this State. Respondent who is represented by legal counsel shall personally or through such counsel give written notice to the Board of the name, address and telephone number of the attorney. Following the Board's receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the

proceedings shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§715. Pleadings; Motions and Service

A. All pleadings, motions, and other papers permitted or required to be filed with the Board in a pending adjudication shall be filed by personal delivery at or by mail to the Board office. Concurrent service by mail or personal delivery shall be filed with the assistant attorney general, if filed by or on behalf of the respondent, or upon respondent or respondent's counsel of record (if any), if filed by the assistant attorney general.

B. All pleadings, motions, discovery, or other papers shall be submitted on plain white letter-size (8½" x 11") bond, with margins of at least 1" on all sides. The text shall be double-spaced, except for quotations and other matter customarily single-spaced. Submitted materials shall bear the caption and docket number of the case as it appears on the complaint, and shall include a certificate of the attorney or person making the filing that service of a copy of the materials has been effected in the same manner by regular mail or by personal delivery.

C. The Board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§717. Pre-Hearing Motions

A. Pre-hearing motions, including a motion to dismiss, shall be filed not less than 30 days following the service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each pre-hearing motion shall be accompanied by a memorandum which sets forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit(s) as necessary to present or support factual content of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the Board may order, the party opposing the motion (whether the opposing party is the assistant attorney general or the respondent or respondent's counsel), may file a memorandum which may be supported by affidavit(s) in opposition to or setting forth the opposing party's position on the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§719. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by Rule 317 of these Rules, provided that the Board may accept the filing of a motion for a continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

B. A scheduled hearing may be continued by the Board only upon a showing by respondent or the assistant attorney general that there are substantial legitimate grounds that the hearing should be continued. These grounds must balance the respondent's right to a reasonable opportunity to prepare and present a defense, with the complaint and the Board's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the Board ordinarily will not grant a motion to continue a hearing that has been previously continued upon motion of the same party. The Board may, but is not required to continue a scheduled hearing, where both respondent and/or respondent's legal counsel and the assistant attorney general jointly request continuance.

C. If an initial motion for continuance is not opposed, it may be granted by the Board's Administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§721. Disposition of Pre-Hearing Motions

A. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the Administrator, shall be referred for decision to the presiding officer of the hearing panel designated for that proceeding. The presiding officer may make a ruling or, at his or her discretion, may refer any pre-hearing motion to the entire panel for disposition. Any party aggrieved by the decision of the presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire panel.

B. The presiding officer or the hearing panel shall ordinarily rule on pre-hearing motions on the papers filed, without a hearing. On written request by the respondent or the assistant attorney general, however, and on grounds satisfactory to the presiding officer of the hearing panel, the presiding officer may grant opportunity for hearing, by oral argument, on any pre-hearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§723. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; Confidential Privileged Information; and Executive Session

A. Rules relating to evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and discovery, and the control of confidential and privileged information will be applied in adjudication proceedings before the Board as specified in LSA-R.S. 49:956, or as may be modified by LSA-R.S. 13:3715.1(J) and LSA-R.S. 44:4(25).

B. To the extent applicable, the testimonial privileges set out in the Social Work Practice Act, LSA-R.S. 37:2718 and the Louisiana Code of Evidence will apply to the hearings before the Board. By bringing a complaint against his or her social worker, the client waives the privilege of confidentiality for the purposes of the hearing.

C. The hearing panel and its designated presiding officer shall take reasonable steps to protect patient/client identity on any medical/psychotherapy records or similar records as required by LSA-R.S. 13:3715.1(J), and to the extent that any information presented at a hearing involves peer review material within the meaning of LSA-R.S. 13:3715.3. If protection of peer review material is required, the Board is authorized to conduct that portion of the hearing in executive session to preserve the confidentiality of peer review privilege materials, including information, data, reports, and records in compliance with LSA-R.S. 13:3715.3(G). The Board may also go into executive session for the limited purpose of discussing the character, professional competence, or physical or mental health of a licensee, pursuant to LSA-R.S. 42:6 and 6.1 and Op. Atty. Gen. No. 94-561, Dec. 8, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§725. Designation of Hearing Panel, Disqualification and Replacement

A. At the time the administrative complaint is docketed with the Board or within 30 days thereafter, the Board chairperson will designate five members of the Board (one of whom may, but is not required to be, the Board chairperson) to serve as the hearing panel for that complaint. The selected Board panel members shall elect from the membership a person to serve as presiding officer. The presiding officer at the hearing may make rulings on objections and the admissibility of evidence, and will insure that the conduct of the hearing proceeds without delay and pursuant to law. The other panel members may not delegate any of their decision-making or fact-finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision-making process.

B. Any panel member having reason to believe that he or she is biased or prejudiced either for or against one of the parties to the proceeding, or who has a personal interest in the outcome, shall immediately notify the remaining Board members and request to be disqualified. Likewise, any party to such a hearing or a compliance hearing as provided in Rule 743, may file with the Board a motion supported by an affidavit requesting disqualification because of bias, prejudice or personal interest. Motion for disqualification shall be filed with the Board and the opposing party within 15 days following the notice of the composition of the hearing panel. Absent good cause shown, motions for disqualification filed more than 15 days following such notice will not be considered. As soon as possible, but not later than 10 calendar days preceding the beginning of the hearing, the majority of the hearing panel will consider the merits of the disqualification request and any opposition to that request filed by the opposing party. The concerned Board member shall not participate in the action to disqualify and shall not vote on that issue. If the Board hearing panel determines there is no merit to the request for disqualification, the Board will proceed with the hearing before the designated panel. However, any doubt as to the merits of the request for disqualification should be resolved in favor of disqualification, and the Board chairperson shall

immediately appoint one of the remaining Board members as the replacement to the hearing panel.

C. Ordinarily, the composition of a hearing panel is five members of the Board. However, in the event that the respondent social worker and the assistant attorney general agree to a hearing panel of three Board members, the chairperson may designate three of the five designated panel members to serve as the hearing panel. Any stipulation regarding a three-Board-member hearing panel must be in writing and signed by the respondent and/or respondent's attorney and the attorney general. Such stipulation further provides that the three member hearing panel may completely adjudicate all issues specified in the complaint, render findings of fact, conclusions of law, decision and sanction, and that no appeal of any decision or sanction will be based on a challenge to the Board's jurisdiction to adjudicate the matter with a three member hearing panel. Any such stipulation to a three-member hearing panel shall be delivered to the Board at least 15 days prior to the scheduled hearing. The written stipulation shall be filed in the adjudication record and shall constitute a waiver of the application of and the need to comply with LSA-R.S. 49:957.

D. At least one member of the hearing panel including the panel members of a compliance hearing specified under Rule 734 shall have the same social work credential as the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§727. Board's Independent Legal Counsel

A. The Board may designate its general counsel to serve as independent counsel relating to complaints and adjudication and compliance hearings.

B. The Board's independent counsel may provide the Board, any hearing panel member, or the Board's Administrator with advice on the issues of legal sufficiency, notice, procedural and substantive due process of law (constitutional, statutory and rules), interpretations relating to any complaint, or the investigation or adjudication thereof. Such independent counsel may not participate in the investigation or prosecution of any case pending before the Board or Board hearing panel.

C. The Board's independent counsel may also provide other services relative to the complaint or adjudication which the Board or the hearing panel deems necessary, except as may be expressly limited by these rules, standards, and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§729. Pre-Hearing Conference

A. In any case of adjudication noticed and docketed for a hearing before the Board, the respondent and/or respondent's legal counsel and the assistant attorney general may agree, or the Board chairperson or the presiding officer of the hearing panel may require, that a pre-hearing conference be held among such counsel or together with the Board's independent legal counsel. This conference will be held for

the purpose of simplifying the issues for the hearing, and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at the hearing.

B. If the parties and/or their legal counsel reside in different cities within the state, or if for other reasons it is inconvenient for parties to appear in person at a pre-hearing conference, the conference may be conducted by telephone.

C. Following the pre-hearing conference, the parties shall (and without such conference the parties may) agree in writing on a pre-hearing order which should include:

1. a brief statement by the assistant attorney general about what such counsel expects the evidence presented against the respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of witnesses to be called by the assistant attorney general and/or respondent, together with a brief general statement of the nature of the testimony each witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§731. Consolidation of Cases

A. The Board shall have the discretion to consolidate one or more cases for hearing when they involve the same or related parties, or substantially the same questions of law or of fact. The Board may also grant separate hearings if a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§733. Conduct of Hearing; Record

A. Adjudication hearings are generally conducted in open session, except where closed or executive session is specifically authorized by law, as identified in these rules.

B. At the adjudication hearing, the assistant attorney general and the respondent and respondent's counsel shall be afforded the opportunity to present evidence on all issues of fact and argument on all issues of law and policy involved. They will also have opportunity to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. The Board through its Administrator shall arrange for a certified court reporter/stenographer who shall be retained by the Board to prepare a written transcript of the proceedings.

D. During the hearing, the presiding officer of the hearing panel shall rule upon all evidentiary objections and other procedural questions, but in his or her discretion may consult with the entire hearing panel in executive session. The independent counsel may assist the presiding officer and the hearing panel, either in open session or executive

session, in ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in an adjudication shall include the items specified in LSA-R.S. 37:2717 and LSA-R.S. 49:955. The record shall also contain the administrative complaint, the notice of hearing, the respondent's response to the complaint (if any), copies of subpoenas issued in connection with the case or the hearing of the adjudication, as well as all pleadings, motions and intermediate rulings.

F. The order of presentation in adjudication proceedings, unless the parties stipulate otherwise and the hearing panel approves, is first the presentation of evidence by the assistant attorney general, the presentation of evidence by the respondent, rebuttal by the assistant attorney general (if any). Rebuttal should be directed to issues raised by the evidence and defenses presented by respondent's case. Should the hearing panel determine, in the interest of fairness, that respondent be provided a limited opportunity to present additional evidence following rebuttal, the panel may so order.

G. Hearing panel members may direct questions to any witness at any time during the hearing process. Should questions posed by the hearing panel members suggest the need for additional direct examination, cross-examination or redirect examination by either party, the hearing panel will allow such additional examination as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§735. Evidence; Burden of Proof

A. In an adjudication hearing, the Board or the designated Board hearing panel may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. To the extent applicable or not subject to exception, effect will be given to the rules of privilege recognized by law. The panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, any part of the evidence may be received in written form.

B. Any records and documents in the Board's possession which either party desires the Board to consider may be offered and made a part of the record. Such materials may be received into the record in the form of copies or excerpts and shall be available for the respondent's legal counsel to examine before being received into evidence.

C. To the extent not prohibited by law, the hearing panel will honor and receive written stipulations arrived at between the parties as a proven fact at the hearing. The hearing panel, as appropriate, will also accept verbal stipulations arrived at between the parties during the hearing as proven fact, provided both parties and/or their respective legal counsel acknowledge the factual content of the stipulation on the record. The hearing panel may use stipulations as well as other evidence in arriving at any decision.

D. The hearing panel may take notice of judicially cognizable facts and of generally recognized technical or scientific facts within the hearing panel's social work or clinical social work knowledge. The parties shall be notified either before or during the hearing of any material noticed or sought by any party to be noticed. All parties will be afforded an opportunity to contest any materials so noticed. The hearing panel may draw upon its knowledge of social work, social work methodology, and clinical social work methods in evaluating any evidence presented.

E. The presiding officer at the hearing shall have the power to administer oaths or affirmations to all witnesses appearing to give testimony. The presiding officer shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents (if any are required or requested), and may direct the parties to appear and confer to consider simplifying issues.

F. In adjudication hearings before the Board or any Board hearing panel, the Louisiana Code of Evidence may be used as a reference by the panel for admissibility of evidence and other evidentiary issues. The provisions of the Code of Evidence relating to hearsay are not strictly applicable to adjudication hearings.

G. At an adjudication hearing, the burden of proof rests with the attorney general or the assistant presenting the evidence before the hearing panel. No sanction shall be imposed or order issued except upon consideration of the entire record as supported by and in accordance with reliable, probative and substantial evidence. The burden of proof related to any issue is a preponderance of evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§737. Decisions; Notice

A. Following the presentation of evidence and any arguments, submission of briefs or written memorandum (if requested by the hearing panel), the hearing panel shall deliberate and reach its findings of fact and conclusions of law as soon as practicable after the hearing concludes. The hearing panel shall render its decision in writing within 60 days of the last hearing date, unless the hearing panel extends time for submission of any post-hearing briefs, memoranda or suggested findings of fact and conclusions of law.

B. The hearing panel's findings of fact and conclusions of law, including any sanction if applicable, shall be signed by the presiding officer of the hearing panel on behalf of and in the name of the Board. In any decision in which the hearing panel's decision was not unanimous, those hearing panel members deciding with the majority shall also sign the decision. Any panel member disagreeing with the findings of fact and conclusions of law or sanction should note his/her dissent on the decision and may record thereon any reasons for his/her dissent.

C. A certified copy of the final decision shall be served promptly upon respondent's counsel of record, or on respondent personally in the absence of counsel, and on the

assistant attorney general in the same manner of service prescribed for the service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§739. Rehearings

A. A decision by the Board or a Board hearing panel in the case of adjudication shall be subject to rehearing, reopening, or reconsideration by the Board as provided for in LSA R.S. 49:959, provided the Board receives such a request at its office within 10 days of the entry of the Board's final decision. If the Board receives such a written request by mail after 10 days of the entry of its final decision, the request will be considered timely if the request is post-marked within the 10-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§741. Miscellaneous Rules

A. Social workers have a continuing obligation to keep the Board informed about their current addresses. Accordingly, if notice of an investigation, service of an administrative complaint, or notice of a hearing cannot be delivered by mail or by personal delivery, the Board shall make reasonable efforts to contact the social worker and obtain the social worker's new address. If, after the Board makes reasonable efforts to locate the social worker, notice or service cannot be made because the social worker cannot be located, then the Board or any designated hearing panel is authorized to proceed with the investigation, complaint procedure, and adjudication of the complaint, notwithstanding the social worker's absence, lack of participation in the process, or failure to appear.

B. If the social worker receives due notice of an adjudication hearing and fails to appear and participate, and does not notify the Board of good cause for the social worker's absence, the Board and its designated hearing panel may proceed with the adjudication notwithstanding the social worker's absence.

C. If a social worker is unable to attend an adjudication hearing because the social worker is incarcerated as the result of the conviction of any criminal conduct recognized as a felony under either State or Federal law, or is under federal detention subject to a removal or deportation order, the Board and its designated hearing panel may proceed with the adjudication hearing after providing the incarcerated or detained social worker reasonable opportunity to participate in the hearing. That participation may be through legal counsel authorized to practice in this state, participation by telephone at the social worker's expense, and the opportunity to present evidence through deposition, affidavit, or such other reasonable means as the Board and/or the hearing panel deems fair and appropriate.

D. Social workers who are subject to an investigation and/or are named as a respondent in an administrative complaint filed with the Board are entitled to defend themselves with or without the benefit of legal counsel. If a social worker chooses not to defend and instead surrenders his/her license, certificate, provisional certificate, or

registration at any time during an investigation, complaint or adjudication hearing, but prior to the hearing panel's decision thereon, the Board will deem such surrender as an attempt to avoid the disciplinary process. The Board will then subject the involved social worker to the revocation of the license, certificate, provisional certificate, or registration, or impose other sanction or disposition which the Board deems appropriate, based on the information available to the Board. Such Board action may also impose restrictions on any subsequent application to the Board which the involved social worker may make. Such restrictions may include restricting the social worker from making subsequent application for as much as five years following the surrender or resignation by the social worker. The Board is also authorized to report in its newsletter a summary of the circumstances surrounding the social worker's surrender or resignation of license, certificate, or registration while under investigation or subject to an administrative complaint.

E. The Board shall have authority to delegate to the CIO or the Board Administrator the investigation of any alleged violations of LSA-R.S. 37:2720 or prior to bringing any injunctive proceedings under LSA-R.S. 37:2721. Following the Board's review of any investigation conducted thereon, the Board shall contact the appropriate district attorney or bring injunctive proceedings through the attorney general, or both. Final authority for appropriate action rests solely with the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§743. Compliance Hearing

A. Any applicant whose application is rejected may seek a compliance hearing as provided for in LSA-R.S. 37:2710, provided that the request for such compliance hearing is submitted to the Board in writing within 30 days after the applicant receives notice of rejection. In the request for a compliance hearing, the applicant shall state the specific reasons for the opposition to the rejected application.

B. After receiving a request for a compliance hearing, the Board's Administrator shall contact the Board chairperson, who will designate three Board members to sit on a hearing panel for the compliance hearing. The purpose of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence through affidavits, court records, official records, letters, etc., along with under-oath testimony to establish that the applicant in fact meets the lawful requirements for the application or for the retention or renewal of the license, certificate, provisional certificate, or registration. The hearing panel shall elect from its membership one Board member to serve as the presiding officer. The presiding officer shall administer oaths, maintain order at the hearing, fix new hearing dates as required, and rule on other matters relating to the hearing. A record of the hearing will be maintained by the Board's Administrator, although a court reporter or stenographer is not required. The applicant may be represented by counsel or may represent himself/herself. If the applicant requests a court reporter, a court reporter may be provided at the applicant's expense.

C. In any compliance hearing, the burden shall be on the applicant to establish that he or she meets the criteria for the

application renewal or retention of license or that the renewal was timely.

D. An applicant whose license, certificate, provisional certificate, or registration is deemed lapsed under LSA-R.S. 37:2714 may request a compliance hearing provided the applicant requests the hearing in writing within 10 days after receiving the notice of the lapsed license, certificate, provisional certificate, or registration. In the event that the applicant did not receive such notice, then the applicant must request a compliance hearing within 30 days of the date upon which the license, certificate, provisional certificate, or registration would have lapsed by operation of law.

E. Whenever possible, the compliance hearing shall be conducted within 30 days after the Board receives the request for the compliance hearing. In the event that the Board is unable to schedule a compliance hearing within 30 days of the request, the Board may schedule the hearing at its next regularly scheduled Board meeting.

F. At the compliance hearing, the hearing panel may consult with its general counsel (independent counsel) on any legal issues emerging from the evidence submitted. Within 15 days after the compliance hearing concludes, the hearing panel will render its final decision, including findings of fact and conclusions of law. The decision will be delivered by registered mail, return receipt requested, to the applicant requesting the compliance hearing. In the event that the hearing panel's decision is adverse to the applicant, the applicant may apply for rehearing before the entire Board by submitting a written request within ten days as provided in LSA-R.S. 49:959, subject to further judicial review pursuant to LSA-R.S. 49:964, 965. Any rehearing before the Board will be conducted on the record made before the hearing panel, including the hearing panel's findings of fact, conclusions of law, and recommendations. To the extent practicable, the rehearing will be held at the next regularly scheduled Board meeting. The Board will review the findings of fact and conclusions of law of the hearing panel and the evidence and exhibits as submitted, as well as any written submissions or assignments of error. Unless requested by the Board, oral presentations or arguments will not be permitted on rehearing. The Board will render its decision on rehearing within 30 days of its hearing the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

§745. Declaratory Ruling

A. Any person or entity deemed to be governed by or under the jurisdiction of LSA-R.S. 37:2701-2723 may apply to the Board for a declaratory order or ruling in order to determine the applicability of any of the above statutory provisions or any of the rules of this Board. The Board shall issue the declaratory order or ruling in connection with the request by majority vote of the Board, signed and mailed to the requesting party within thirty days of the request. However, the Board may seek legal counsel or an attorney general's opinion in connection with the request for such a declaratory ruling, in which case the Board's decision on that ruling or order may be issued within sixty days of the request. Any judicial review of the validity or applicability

of any of these rules shall be in conformity with LSA-R.S. 49:963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 25:

Public hearings on the proposed rules will be held at 9:00 AM and again at 5:00 PM on Thursday, November 11, 1999 and at 9:00 AM on Monday, November 29, 1999 in the Creole Room of the Radisson Hotel, 4728 Constitution Drive, Baton Rouge, Louisiana.

Interested persons may submit written comments to Suzanne L. Pevey, Administrator, Louisiana State Board of Board Certified Social Work Examiners, 11930 Perkins Road, Suite B, Baton Rouge, Louisiana, by facsimile to (225) 763-5400 or by email at social.work@labswe.org. All comments must be postmarked by 4:30 PM, Friday, November 29, 1999. You may review the rules on the Board's web site located at: <http://www.labswe.org>.

Dorinda N. Noble, Ph.D., BCSW
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Standards and Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this rule will increase the Louisiana State Board of Social Work Examiners' costs to credential social workers in the State of Louisiana (not already licensed as Board Certified Social Workers (BCSWs)) by approximately \$236,101 for the fiscal year 1999-2000. The increase in cost to the Board for the fiscal year 2000-2001 will be approximately \$150,228 and approximately \$160,716 for the fiscal year 2001-2002. The estimates are based on the addition of two (2) new employees in the 1999-2000 fiscal year to deal with the increased workload associated with the credentialing of an estimated 4,000 social workers. Included in the expenses is salaries, benefits, office furniture, and computer for the new employees, along with an increase in operating expenses to cover printing and postage.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Board anticipates collecting approximately \$290,000 in self-generated fees from the application fees submitted by individual social workers for the 1999-2000 fiscal year. Revenues to the Board will increase in the following fiscal years based on annual renewal fees paid by licensees and will generate sufficient monies for the Board's operation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individual social workers, regardless of educational level or work setting, will be required to be credentialed by the Louisiana State Board of Social Work Examiners by December 31, 2000. The initial application fee for the Licensed Clinical Social Worker will be \$100.00, the Graduate Social Worker will be \$75.00 and the Registered Social Worker will be \$50.00.

The implementation of this rule and Act 1309 of the 1999 Regular Session of the Louisiana Legislature will provide public protection to all citizens of the State against the

unauthorized, unqualified and improper practice of social work and will assure that only individuals with educational degrees in social work from accredited universities use the title Social Worker.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Act 1309 of the 1999 Regular Session of the Louisiana Legislature will require that every social worker in the State be licensed, certified or registered. Furthermore, only individuals licensed, certified or registered by the Louisiana State Board of Social Work Examiners may use the title Social Worker effective January 1, 2000. Social workers are currently employed in many areas of both the public and private sectors and the Board foresees no impact on competition and employment, only greater accountability in the area of public protection.

Suzanne L. Pevey
Administrator
9910#014

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Certified Animal Euthanasia Technicians
(LAC 46:LXXXV.704 and Chapter 12)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.704 and Chapter 12 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. The proposed rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

**§704. Consulting and Providing Legend and Certain
Controlled Substances**

A. ...

B. Telazol (Tiletamine HCL and Zolazepam HCL) and Ketamine (Ketamine HCL)

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local government agency to perform animal control services on behalf of the local governmental agency seeks to administer the controlled substance Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL), to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency, unless it has a Lead CAET as defined in R.S. 37:1552(4), must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine and who is registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered who obtains, and

who is responsible for, the Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL) used.

2. ...

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 20:666 (June 1994); amended LR 24:334 (February 1998), LR 25:519 (March 1999), LR 26:

**Chapter 12. Certified Animal Euthanasia Technicians
§1200. Definitions**

All definitions used in this Chapter shall have the meaning assigned to them in La. R.S. 37:1552. In addition, the following definitions shall be applied:

Board—the Louisiana Board of Veterinary Medicine.

CAET or Certified Animal Euthanasia Technician— a person who is instructed in a board-approved program in the proper methods of humanely euthanizing animals by injecting legal drugs in accordance with rules adopted by the board, in proper security precautions, in proper record keeping, and related skills, and who has been issued a certificate by the board.

Full Certification—means a certificate of approval granted to an applicant who has fulfilled all requirements of this chapter. Such certificates shall expire annually.

Lead Certified Animal Euthanasia Technician or Lead CAET—a CAET who also meets the requirements of La. R.S. 1552(4).

Temporary Certification—a certificate of approval granted to an applicant who has satisfied the requirements of this Chapter for the issuance of a temporary certificate, but who has not fulfilled the requirements of this Chapter for full certification. Such certificates shall expire 30 days after the next available board-approved course in animal euthanasia has been held unless the temporary certificate is otherwise extended by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1201. Applications for Certificates of Approval

A. Pursuant to La. R.S. 37:1553, 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 Louisiana notary public;

2. a current passport type photograph of the applicant;

3. an official copy of a birth certificate or a notarized copy of a current driver's license as proof of age;

4. an official transcript of the applicant's high school records or photocopy of the applicant's high school diploma or GED or an official transcript indicating attendance at an institution of higher learning;

5. certified scores on any previous examinations in animal euthanasia and/or proof of successful completion of a Board-approved course in animal euthanasia within a three-year period;

6. certification by the applicant that he has never been convicted, pled guilty or pled nolo contendere to either a

felony or misdemeanor, other than a minor traffic violation. In the event that the applicant is unable to so certify, the Board shall require the applicant to explain in full and/or provide further documentation;

7. certification that the applicant has never had certification as a certified animal euthanasia technician revoked, suspended, or denied. In the event that the applicant is unable to so certify, the Board shall require the applicant to explain in full and/or provide further documentation;

8. a list of all professional certificates or licenses that the applicant currently holds and/or has held;

9. two letters of reference on Board-approved forms from licensed veterinarians or other professional persons associated with animal control administration who can attest to the applicant's professional character and ethical standards;

10. a release waiver form to authorize a background check regarding the applicant's history with dangerous and/or controlled substances to be performed by the Drug Enforcement Administration or other law enforcement agency at the Board's request. A photostatic copy of the applicant's authorization is accepted with the same authorization as the original. The background check must be successfully passed, which means that the Drug Enforcement Administration or other law enforcement agency has indicated to the board that the applicant has no previous criminal convictions involving dangerous and/or controlled substances.

11. 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. 37:1554.

12. unless otherwise already in possession of the board, evidence that the applicant has successfully completed a board-approved program in animal euthanasia, which shall include instruction in the proper methods of humanely euthanizing animals by injecting legal drugs in accordance with rules adopted by the board, in proper security precautions, in proper record keeping, and related skills identified by the board.

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.

C. The Board shall reject the application of an applicant who has practiced veterinary medicine, veterinary technology, or euthanasia technology with sodium pentobarbital in this state without a license, temporary permit, exception, or certificate of approval during the two-year period immediately prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:963 (August 1997), LR 26:

§1203. Examinations

A. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), repromulgated LR 26:

§1205. Passing Scores

A. A passing score on any written and/or oral portions of the examination shall be deemed to be the correct answering of seventy percent of the questions contained on that portion of the examination.

B. A passing grade on the practical portion of the examination will be determined by the successful completion of a series of hands-on demonstrations which indicate that the applicant has been properly trained in procedures which will enable him to safely and effectively perform humane euthanasia with sodium pentobarbital.

C. Applicants who fail to achieve a passing score on any portion of the examination, either written or practical, will not be eligible for a certificate of approval nor may they apply for a temporary certificate of approval.

D. Appeals concerning the examination must be made in writing to the Board within 30 days of the administration of the examination. All such formal appeals will be reviewed at the next available meeting of the Board. The Board may call witnesses and/or hold public hearings as it deems necessary although it is not required to do so unless otherwise specified by statute. The decision of the Board regarding such appeals is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1207. Certificates Without Examination

The Board shall not issue full certificates of approval without examination under any circumstances, except as provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1209. Temporary Certificate of Approval

A. The Board may issue a temporary certificate of approval when an applicant meets all of the following requirements:

1. - 2. ...

3. Applicant has submitted a release waiver form to authorize a background check regarding the applicant's history with dangerous and/or controlled substances to be performed by the Drug Enforcement Administration or other law enforcement agency at the Board's request. A photostatic copy of the applicant's authorization is accepted with the same authorization as the original. The background check must be successfully passed, which means that the Drug Enforcement Administration or other law enforcement agency has indicated to the board that the applicant has no previous criminal convictions involving dangerous and/or controlled substances;

4. ...

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR

§1211. Fees

A. The Board hereby adopts and establishes the following fees for CAET program:

Application fee	\$25
Course Fee	\$80
Annual renewal of certificate	\$50
Examination fee	\$50
Late renewal fee	\$25
Original fee—full certification	\$50
Temporary certification fee	\$50

B. Renewals received after the expiration date as provided in La. R.S. 37:1546, shall be charged a late renewal fee.

C. The Board may direct that examination fees be assigned or remitted directly to the agency selected to prepare, administer, and score the examination in animal euthanasia. Said agency may not assess fees in addition to those set by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1213. 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 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 certified animal euthanasia technician 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 fee and any other documents required by this chapter, shall be postmarked no later than the expiration date of the license 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:1685 (December 1997), LR 26:

§1215. Expired Certificate

A. A certified animal euthanasia technician 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 late fees, and meeting the continuing education requirements prescribed by the board.

B. A CAET 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.

C. The identifying number of an expired certificate of approval shall not be issued to any person other than the original holder of that number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1217. Revoked Certificate

A. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1554 must reapply for a new certificate.

B. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1554 shall not be issued a new certificate unless approved by a majority of the quorum of the board.

C. The identifying number of a revoked certificate of approval shall not be issued to any person other than the original holder of that number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

§1219. Appeals and Review

A. Any applicant for a certificate of approval desiring to review his examination and/or the master answer sheet and/or the examination questions shall make arrangements with the board, its agent, designee or any other person, firm, corporation, or entity charged with the preparation, grading and/or administration of the course for such review.

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. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1221. 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. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

§1223. Maintenance and Security of Sodium Pentobarbital

A. Storage. All sodium pentobarbital shall be stored either in a securely locked cabinet which is of substantial construction or in a safe or in a locked metal cabinet. The cabinet, safe or locker shall be locked at all times. The CAET(s) shall have the responsibility for the safe-keeping of the keys and/or combination to the cabinet, safe, or locker.

B. Usage Log

1. A usage log shall be maintained to account for the use of each cubic centimeter (cc) or parts thereof of sodium pentobarbital. The log shall include:

- a. the date of usage;
- b. the lot number and bottle number used;
- c. the amount (in cc's) of usage;
- d. the tag number or other identification number for the animal;
- e. the name of the person who drew the sodium pentobarbital;
- f. any amount of drug wasted, spilled, or lost; and
- g. the name of a witness to the waste, spillage, or loss of sodium pentobarbital.

2. The usage log shall be maintained on a standardized form provided by the Board or its designated agent. Copies of the log so provided may be made by the shelter.

3. Usage logs shall be made available to any official of the Drug Enforcement Administration without prior notification.

C. Inventory

1. A perpetual inventory of all sodium pentobarbital shall be maintained. An initial inventory must be conducted when a CAET first obtains a DEA registration and/or Louisiana Controlled Dangerous Substances License. A physical inventory shall be conducted every three months.

2. The inventory shall indicate the amount of sodium pentobarbital ordered, the amount presently on hand, the amount used for euthanasia, the amount lost due to spillage or waste, the amount lost due to the drug's expiration, and the time of day the inventory was taken.

3. The inventory shall be made and signed by the certified animal euthanasia technician(s) or licensed veterinarian who is the registrant of the Drug Enforcement Administration.

4. Upon written request from either the Louisiana Board of Veterinary Medicine or the Department of Health and Hospitals, the certified animal euthanasia technician shall provide a copy of the inventory records.

5. Inventory logs shall be made available to any official of the Drug Enforcement Administration without prior notification.

6. The inventory log shall be maintained on a standardized form provided by the Board or its designee. Copies of the form so provided may be made by the shelter.

D. Orders, Destruction, and Thefts

1. Placing Orders. All sodium pentobarbital must be purchased by way of a DEA 222 order form. Alterations and scratch-outs are not allowed on this form. If a mistake is

made on the form, "void" must be written on the form and the form must be maintained in the file.

2. Receiving Orders. The date and amounts received must be logged in on the order form.

3. Returns of Sodium Pentobarbital to Suppliers. If sodium pentobarbital must be returned to a supplier or transferred to another person possessing a DEA registration and Louisiana Controlled Dangerous Substances License, the supplier or person to whom the drugs are transferred must complete a DEA 222 order form. Both the person returning or transferring the sodium pentobarbital and the recipient must maintain a copy of the DEA 222 form.

4. Destruction of Sodium Pentobarbital. Sodium pentobarbital shall not be destroyed without the prior approval of the U.S. Drug Enforcement Administration. Any destruction approved must be witnessed by a law enforcement officer.

5. Any theft of sodium pentobarbital must be reported to the local police, U.S. Drug Enforcement Administration, and the Louisiana Controlled Dangerous Substances Program.

E. Record Retention. All controlled substances records, including, but not limited to, inventory documents, usage logs, order forms, reports of theft or destruction of controlled substances, must be maintained for a minimum of five years plus the current calendar year.

F. Leaving Employment. A CAET registered with the U.S. Drug Enforcement Administration who leaves employment at a registration site must return his DEA registration any unused DEA order form 222s to the DEA. A CAET licensed with the Louisiana Controlled Dangerous Substances Program who leaves employment at a licensed site must return his license to the Louisiana Controlled Dangerous Substances Program.

G. Changing Site Address. It is the responsibility of the CAET registered with the U.S. Drug Enforcement Administration or licensed by the Louisiana Controlled Dangerous Substances Program to inform in writing either or both of those agencies if the address of the site at which he is registered or licensed changes. The written notification must include the name of the CAET, his registration or license number, the current address of the site, the pending new address of the site, the site name, and the signature of the CAET. Written notification must be submitted to the Drug Enforcement Administration and/or Louisiana Controlled Dangerous Substances Program prior to the relocation of the site.

H. Failure of a CAET to comply with any and all provisions of this Section shall be considered a violation of the rules of professional conduct within the meaning of La. R.S. 37:1554(A)(12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:

§1225. Responsibilities of a Lead CAET

A. Designation

1. Pursuant to R.S. 37:1552(4), a person seeking designation as a Lead CAET must submit the following to the board:

- a. a completed application form approved by the board which shall be sworn to and notarized before a Louisiana notary public;
- b. a copy of his current Louisiana state controlled dangerous substances license;
- c. a copy of his current registration with the U. S. Drug Enforcement Administration;
- d. documentation from the sponsor of a board-approved chemical capture training course that
 - i. he has completed the chemical capture training course; or
 - ii. until December 31, 2000, if a designee applicant completed a chemical capture training course prior to August 1, 2000, he may submit documentation of such completion along with information concerning the content of the course to the board; the board may approve the course and accept it as sufficient to meet the requirements of R.S. 37:1552(4)(c).

B. Legal Drugs. Pursuant to R.S. 37 1556.B, those controlled substances a Lead CAET may legally order and maintain for the sole purpose of restraining, capturing and euthanizing animals shall be limited to the following:

- 1. Sodium Pentobarbital at a minimum strength of six grains per milliliter;
- 2. Tiletamine hydrochloride and Zolazepam hydrochloride; and
- 3. Ketamine hydrochloride.

C. Providing Chemical Capture Drugs

1. A Lead CAET shall provide chemical capture drugs only to persons who have completed a board-approved training course in the use of chemical capture drugs.

2. Prior to transferring chemical capture drugs to a person who has completed a board-approved training course in the use of chemical capture drugs, a Lead CAET shall have and maintain on file documentation from the sponsor of the board-approved course that the person completed the course. Until December 31, 2000, if a person to whom the Lead CAET provides chemical capture drugs completed a chemical capture training course prior to August 1, 2000, the Lead CAET may submit documentation of such completion along with information concerning the content of the course to the board; the board may approve the course and accept it as sufficient to meet the requirements of R.S. 37:1556(B)(4).

3. Prior to ordering, maintaining, or providing any controlled substance under his own authority to another person, the lead CAET must be registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered.

4. The Lead CAET must maintain and store the controlled substances allowed for use under §1225.B in a manner which meets or exceeds the requirements of all federal or state drug enforcement agencies, including storage of controlled substances in a securely locked, substantially constructed cabinet and the keeping of a perpetual inventory as required by LAC Title 48: Chapter 39).

5. Use of controlled substances allowed under §1225.B shall be documented to include, but not limited to:

- a. date of each use of the drug;
- b. species of animal;
- c. estimated weight of animal;
- d. dose administered;

- e. name of animal control officer to whom the drug was transferred and who administered the drug;
- f. a perpetual (running) inventory of the drug present at the facility; and
- g. both the Lead CAET and person to whom the drug is transferred shall sign a drug sign-out document each time the drug is transferred for use.

6. The Lead CAET shall review each use of the controlled substances allowed under §1225.B and the Lead CAET shall initial the usage log entries to indicate this review. A review of the usage logs shall be made at least quarterly and the quantities of drug used and on hand shall be tallied and authenticated. Any variance shall be noted in the log and steps should be taken and documented to correct the problem.

7. Any removal of the controlled substances allowed under §1225.B from the securely locked, substantially constructed cabinet shall be in minimal amounts, shall be maintained in a locked container when not in use, and shall be documented in a manner to include, but not be limited to:

- a. a signed log indicating the person removing the drug;
- b. the date on which the drug was removed;
- c. an accounting for all drug used and the amount returned;
- d. the date on which the remaining drug was returned and the signature of the person returning it.

8. This section does not pertain to any drug(s) listed in any DEA classification schedule (also known as controlled drugs) or State of Louisiana classification schedule, except those allowed under §1225.B.

D. Failure of a Lead CAET to comply with any and all provisions of §1223 and §1225 shall be considered a violation of the rules of professional conduct within the meaning of La. R.S. 37:1554(A)(12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:

§1227. 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 CAET 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.

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 CAET must fulfill his annual educational requirements at his own expense or through a sponsoring agency other than the board.

B. Failure to Meet Requirements

1. If a CAET fails to obtain a minimum 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 CAET 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.

C. Approved Continuing Education Programs

1. Organizations sponsoring a continuing education program for CAETs must submit a request for approval of the program to the board no less than 75 days prior to the commencement of 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. CAETs may also submit a request for approval of a continuing education program no less than 75 days prior to the commencement of the program. Information to be submitted shall comply with the requirements of §1227.C.1.

3. Continuing education units which are submitted for renewal and were not pre-approved by the board may be reviewed by the board. If units are not approved, the CAET will be required to take additional continuing education in an approved program prior to renewal of his certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

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 November 19, 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 November 29, 1999, at 9:00 a.m. 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: Certified Animal Euthanasia
Technicians**

**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). Certified Animal Euthanasia Technicians will be informed of this rule via the board's regular newsletter or other direct mailings, which are a budgeted cost of the board.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed fee increases and new fees will not have an impact until next fiscal year, 2001/2001. The anticipated increase in agency self-generated funds for FY 2000/2001 is based on the following:

Category	Current Revenue	Proposed Revenue	Net Effect
Application Fee	\$0	35 x \$25=\$875	\$875
Course Fee	\$0	35 x \$80=\$2,800	\$2,800
Annual Renewal Fee	75 x \$25= \$1,875	75 x \$50=\$3,750	\$1,875
Examination Fee	35 x \$75= \$2,625	35 x \$50=\$1,750	(\$875)
Late Renewal Fee	1 x \$25=\$25	1 x \$25=\$25	\$0
Original Registration Fee	20 x \$50 = \$1,000 (temps to full) +15 x \$25 = \$375	35 x \$50=\$1,750	\$375
Temporary Certification Fee	15 x \$25=\$375	15 x \$50=\$750	\$375
Total	\$6,275	\$11,700	\$5,425

The additional revenue in subsequent fiscal years is projected to be the same.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Certified Animal Euthanasia Technicians (CAET) and applicant/examinees will be affected by the proposed action. The net cost effect on each category is illustrated in item II above. The proposed amendments will require some additional paperwork be submitted when applying for Lead CAET designation. Certified Animal Euthanasia Technicians will also be required to perform continuing education and submit proof with renewals annually. All CAETs who will be renewing a certificate will be responsible for the cost of continuing education programs.

**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
9910#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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 25:

§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 Louisiana 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 Louisiana 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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

§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 25:

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 Fee	\$0	6 x \$100=\$600	\$600
Total	\$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
9910#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Renewals (LAC 46:LXXXV.305)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.305 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. The proposed rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendment to the rule is set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXXXV. Veterinarians**

**Chapter 3. Licensure Procedures
§305. Renewals**

A. Annual Renewal of License. Pursuant to LSA-R.S.37:1524, all licenses expire annually on September 30 of each year and must be renewed by making application for renewal of license with the board and payment of the annual renewal fee. A complete application for renewal of license must be submitted to the board or the license shall be expired. For an application for renewal of license to be considered complete, the following conditions must be met:

- 1. application for renewal must be postmarked by September 30 of the year of application for renewal;
- 2. full payment of renewal fee must be submitted;

3. documentation of compliance with continuing education requirements in accordance with Chapter 4 of this Part must be submitted; and

4. if applicable, late continuing education fee must be submitted.

B. Renewal of Expired Licenses. A license which expires may be renewed within five years of the date of its expiration by submitting an application for renewal which meets the following conditions:

1. application for renewal must be submitted;

2. full payment of current renewal fee must be submitted;

3. full payment of delinquent annual renewal fees must be submitted;

4. full payment of late fees for delinquent license renewal must be submitted;

5. documentation of compliance with continuing education requirements, for the current year and delinquent years, in accordance with Chapter 4 of this Part must be submitted; and

6. if applicable, late continuing education fee must be submitted.

C. Notice

1. A person failing to renew his license shall receive one notification via certified mail, return receipt requested, which notification shall be mailed within ten days after expiration of license. Such notice will advise that any person who shall practice veterinary medicine after the expiration of his license and willfully or by neglect fails to renew such license shall be guilty of practicing in violation of LSA-R.S. 37:1514. Such notice shall also state that the board may publish the name of any person holding an expired license and that the board may distribute the name of any person holding an expired license to agencies which may include, but is not limited to, the Louisiana state controlled dangerous substances program, the United States Drug Enforcement Administration, the United States Food and Drug Administration, the United States Department of Agriculture, drug supply wholesalers, veterinary supply wholesalers, the Louisiana Board of Pharmacy, the Louisiana Board of Wholesale Drug Distributors, the Louisiana Veterinary Medical Association, and any other entity that requests or is entitled to such information.

2. Pursuant to LSA-R.S. 37:1525, after five years have elapsed since the date of expiration, a license may not be renewed. No later than 60 days prior to the end of the five-year period, the board shall mail notice via certified mail, return receipt requested, to the person holding such expired license. Such notice shall state that if the license is not renewed prior to the end of the five-year period, the license shall be permanently removed from the board's rolls and that the holder shall be required to make application for a new license.

D. It is the duty of the licensee to maintain a current address with the office of the Board of Veterinary Medicine and to notify the board's office if an annual re-registration form is not received.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993); amended LR 23:965 (August, 1997), LR 24:941 (May 1998), LR 25:

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 November 19, 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 November 29, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Kimberly B. Barbier
Administrative Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Renewals

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 amendment (estimated \$120). Licensees will be informed of this rule change 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)

There will be no effect on revenue collections of state or local governmental units. There will be no revenue impact as no increase in fees will result from the amendment.

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.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly B. Barbier
Administrative Director
9910#019

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

Eligibility—Native American Fishing Rights

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 Bureau of Health Services Financing adopted a rule promulgating the Medicaid Eligibility Manual in its entirety by reference in July of 1996 (*Louisiana Register* Volume 22, No. 7). Section I of the Medicaid Eligibility Manual explains

the eligibility factors used to determine Medicaid eligibility, including countable income and resources.

The Technical and Miscellaneous Revenue Act (TAMRA) of 1988 (Public Law 100-647) amended sections 209(a)(18), 211(a)(14) and 1612(a) of the Social Security Act by excluding the income of Native Americans derived from the exercise of fishing rights from the definitions of wages and self-employment income for Supplemental Security Income (SSI), thereby making it considered as unearned income. The Bureau proposes to amend section I of the Medicaid Eligibility Manual governing countable income and resources by adopting the provisions of P. L. 100-647, which requires that the income of Native Americans derived from the exercise of recognized fishing rights be considered as unearned income in the determination of Medicaid eligibility.

In compliance with Act 1183 of the 1999 Regular Session, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends Section I of the Medicaid Eligibility Manual governing countable income and resources by adopting the provisions of P.L. 100-647, which requires that the income of Native Americans derived from the exercise of recognized fishing rights be considered as unearned income in the determination of Medicaid eligibility.

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: Eligibility—Native American Fishing Rights

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Estimated costs to the state cannot be determined at this time, as currently there are no known cases affected by implementation of this proposed rule. However, it is anticipated that costs, once determined, will be minimal. Included SFY 1999-00, \$410 (\$205 SGF and \$205 FED) for the state's administrative expense of promulgating this proposed rule, the final rule and the Medicaid Eligibility Manual revisions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated effect on revenue collections cannot be determined at this time, as currently there are no known cases affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Income of Native Americans that is derived from exercise of recognized fishing rights shall be considered as unearned income in the determination of Medicaid eligibility. State programmatic costs cannot be determined at this time as currently there are no known cases affected by implementation of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9910#078

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

TEFRA Optional Eligibility Group

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing 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.

In §134 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982, the U.S. Congress defined a new optional group for Medicaid eligibility called the Disabled Children Home Care State Plan Option. In the Omnibus Budget Reconciliation Act (OBRA) of 1987, changes were made to the qualifying criteria to make eligibility more consistent with the requirements for persons who are eligible because they are receiving institutional care (living in a hospital, nursing home, or intermediate care facility for the mentally retarded). These provisions amended §1902(e)(3) of the Social Security Act to create an optional eligibility group referred to as "TEFRA". The TEFRA eligibility group is composed of disabled children who meet certain conditions.

Current federal regulations describe this eligibility group as individuals under age 19 who would be eligible for Medicaid if they were in a medical institution.

The State Medicaid agency may provide Medicaid benefits to children 18 years of age or younger who qualify under section 1614(a) of the Act, who would be eligible for Medicaid if they were in a medical institution and who are receiving, while living at home, medical care that would be provided in a medical institution.

If the agency elects to cover this optional eligibility group, it must determine in each case that the following conditions are met:

(1) The child requires the level of care provided in a hospital, skilled nursing facility(SNF), or intermediate care facility (ICF).

(2) It is appropriate to provide that level of care outside such an institution.

(3) The estimated Medicaid cost of care outside an institution is no higher than the estimated Medicaid cost of appropriate institutional care.

TEFRA is a Medicaid eligibility category; it is not a program of specialized services. TEFRA eligibility does not confer access to specialized services offered in a facility or home and community based services waiver. It entitles the child to the same Medicaid benefits available to every Medicaid eligible child.

The Department is establishing this optional eligibility group in compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature which mandates the implementation of TEFRA. 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 the implementation of the TEFRA optional eligibility category will strengthen the family by allowing those disabled children who do not meet the eligibility criteria because of parental income and/or resources to remain at home rather than being admitted to a medical institution in order to become Medicaid eligible.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of §1902(e)(3) of the Social Security Act as amended by §134 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 and the Omnibus Budget Reconciliation Act (OBRA) of 1987 to provide Medicaid eligibility to a new optional group of Medicaid recipients known as TEFRA.

Eligibility Criteria

The eligibility criteria for TEFRA is as follows:

1. the child must be 18 years of age or younger;
2. the child must be disabled according to SSI standards;
3. the child must meet the level of care criteria for residence in an institutional placement for which Medicaid funding would be provided;
4. it must be determined that it is safe and appropriate to provide in-home care to this child;
5. the child's cost of care must be individually cost effective. The annual cost to Medicaid for services in the home must not be higher than the annual cost to Medicaid for services in an institutional setting.

Only the income and assets of the child are considered for TEFRA eligibility. All other eligibility factors applicable to Medicaid eligibility for institutional care are applicable to TEFRA applicants.

Children determined eligible for Medicaid through the TEFRA option will receive regular Medicaid State Plan services, including Early Periodic Screening, Diagnosis, and Treatment (EPSDT) services. They are not eligible for those services only available in a home and community based services waiver.

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: TEFRA Optional Eligibility Group**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the TEFRA optional eligibility group will result in additional costs to the state of approximately \$2,902,836 for SFY 1999-00, \$5,712,714 for SFY 2000-01, and \$5,875,430 for SFY 2001-02. Included in the SFY 1999 is \$250 (\$125 SGF and \$125 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 \$6,880,733 for SFY 1999-00, \$13,567,454 for SFY 2000-01, and \$13,953,898 for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The economic benefit of this proposed rule is that it will provide Medicaid eligibility to disabled children 18 years of age or younger who are living at home, but would be eligible for Medicaid benefits if they were in a medical institution. This proposed rule will result in an increase in expenditures in the Medicaid Program of approximately \$9,000,000 for SFY 1999-00, \$18,504,000 for SFY 2000-01, and \$19,022,112 for SFY 2001-02. Costs reflected are for services for an estimated 5,000 new eligibles and do not include administrative expenditures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9910#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Plumbing Board**

Fees (LAC 46:LV.309)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, proposes to amend and restate Plumbing Regulation, LAC 46:LV.309, in accordance with the Administrative Procedure Act. The proposed rule change notifies the public of the board's intent to increase

certain fees and charges relative to journeyman plumbers; master plumbers; medical gas piping installers; water supply protection specialists, and establish a fee structure for medical gas and vacuum systems verifiers, as authorized by Act 1020 of the 1999 Regular Session. The proposed amendment has no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LV. Plumbers

Chapter 3. Licenses

§309. Fees

A. The fees and charges of the board relative to journeyman plumbers shall be as follows:

Special examinations	\$500
Examinations	\$125
Illiterate examinations	\$150
Initial license fee (This fee to be paid after applicant has successfully passed the exam, in order to receive his first license)	\$ 40
Renewal fee	\$ 40
Revival fee	\$ 15
If renewed after March 31	\$ 30
Temporary permits	\$ 75
Administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)	\$ 62.50
Fee for N.S.F. or returned check	\$ 20
Special enforcement fee imposed under §305.H	\$500

B. - D. ...

E. The fees and charges of the board relative to medical gas and vacuum systems verifier shall be as follows:

1. Application fee	\$200
2. Renewal fee	\$200
3. Revival fee	\$ 65
If renewed after March 31	\$130

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended LR 7:588 (November 1981), amended LR 15:1089 (December 1986) amended by the Department of Employment and Training, Plumbing Board, LR 16:1088 (January 1990), amended LR 17:53 (January 1991), amended by the Department of Labor, Plumbing Board, LR 19:898 (July 1993), LR 19:1594 (December 1993), LR 21:1594 (December 1995), amended by the Department of Labor, Plumbing Board, LR 25:

All currently stated Rules of the board, including existing fees, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Don Traylor, Executive Director, 2714 Canal Street, Suite 512, New Orleans, Louisiana, no later than 5:00 p.m., November 19, 1999.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No costs are associated with implementation of the fees increased by Act 1020 of the 1999 Regular Session.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the fees authorized by Act 1020 will generate an additional \$53,475 in FY's 99-00, 00-01, and 01-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Annual costs of \$53,475 will be borne by persons seeking licensure by the board in all aspects of plumbing. These fees cover the cost of the board's licensing and enforcement activities and are authorized by Act 1020.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of increased fees enacted by Act 1020. New fees authorized for medical gas and vacuum systems verifiers will enhance competition and employment in this specialized area of the plumbing industry.

Don Traylor
Executive Director
9910#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor
Plumbing Board

Integrity of Examination (LAC 46:LV.311)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, proposes to amend and restate Plumbing Regulation LAC 46:LV.311.A and to add LV.311.B in accordance with the Administrative Procedure Act. The proposed rule restates the board's authority to discipline an applicant for a board license for violating examination security procedures and to extend that authority to examinations conducted by authorized third-party organizations, including those organizations certifiable under

related proposed rules authorized by Act 1020 of the 1999 Regular Session. The proposed amendment has no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LV. Plumbers

Chapter 3. Licenses

§311. Integrity of Examination

A. The board may reject an examination for any license or endorsement under this chapter, if it determined that the applicant completed any portion of any such examination with the assistance of any other person or unauthorized written materials secreted into the examination site. Examinees will be allowed to utilize resource or industry code materials approved by the board, or its examiners, or permitted by third-party examiners recognized by the board conducting the examination. Examinees determined to have violated the prohibitions of this section shall be notified in writing and, upon request by the examinee or at the direction of the executive director, an informal conference before the executive director or committee appointed by the Board will be conducted. An affected examinee may appeal the determination reached in the informal conference by filing a written appeal with the Board. Such appeal hearings shall comport with the provisions of R.S. 49:955(B). Based on the evidence adduced at any such hearing, the board may impose sanctions upon the examinee with respect to any subsequently administered examination and related licensing.

B. The board is empowered to act upon reports of violation of §311.A by examinees received from private or public organizations recognized as examiners under §§ 304.H, 306.F, 310.F or 312.B and impose sanctions as described in §311.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), amended by the Department of Labor, Plumbing Board, LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Don Traylor, Executive Director, 2714 Canal Street, Suite 512, New Orleans, Louisiana, no later than 5:00 p.m., November 19, 1999.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Integrity of Examination

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to State or local governmental units as a result of the proposed rules.

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 caused by the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no appreciable costs or economic benefits to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule enhances competition and employment in the Plumbing Industry as it seeks to strengthen measures securing the integrity of the board's examination procedures.

Don Traylor
Executive Director
9910#064

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor
Plumbing Board

Medical Gas and Vacuum Systems Verifiers
(LAC 46:LV.101, 303, 307, 312, 313, 801 and 901)

The Louisiana State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, proposes to amend and restate Plumbing Regulations LAC 46:LV.101, 303, 304, 307, 801, and 901 and proposes to add Plumbing Regulations LAC 46:LV.312 and 313 in accordance with the Administrative Procedure Act. The proposed rule changes provide licensing requirements and procedures relative to medical gas and vacuum systems verification, a specialized aspect of medical gas systems which is now subject to the Board's jurisdiction by Act 1020 of the 1999 Regular Session. The proposed amendments and additions have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LV. Plumbers

Chapter 1. Introductory Information
§101. Definitions

* * *

Medical Gas and Vacuum System Verification—the work or business of testing and verifying medical gas pipeline installations and systems. Medical gas pipeline systems include vacuum piping. The medical gas pipeline systems subject to this definition include facilities and laboratories within the scope of Standard for HealthCare Facilities (ANSI) NFPA 99, latest edition. It shall include the ability to understand and apply NFPA99, as well as all standards listed in Section 1.4 of the Professional Qualifications Standard for Medical Gas Systems Installers, Inspectors and Verifiers, ASSE Series 6000, Standard 6030, and to properly document and report findings to the Louisiana State Fire Marshal or other governmental agencies with compliance and enforcement authority.

Medical Gas and Vacuum Systems Verifier—a natural person who possesses the necessary qualifications and knowledge to test and verify the operation of medical gas and vacuum pipeline systems, subject to the professional qualification standards established by the American Society of Sanitary Engineers (ASSE) Series 6000, Standard No. 6030 (latest edition), and who is licensed as such by the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by Department of Employment and Training, Plumbing Board LR 17:48 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), amended LR 25:

Chapter 3. Licenses

§303. Application for License

A. - E. ...

F. An application for medical gas and vacuum systems verifiers license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he has successfully completed a course of training and related certification testing described in §312.B of these regulations by an organization certified by the board pursuant to R.S. 37:1368(I). The applicant must furnish whatever information relevant to his experience that is requested in the application form or specifically requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by the Department of Employment and Training, Plumbing Board, LR 17:50 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 25:

§307. Renewals

A. All plumbing, medical gas piping installer licenses, medical gas and vacuum systems verifier, as well as water supply protection endorsements, expire December 31 of each year. Applications for renewal will be mailed out by the end of October. The issuance of renewals will commence November 1 of each year. The term "renewal application" as used in §307 shall refer to all licenses and endorsements issued by the board.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated LR 2:419 (December 1976), amended LR 7:588 (November 1981), amended by Department of Employment and Training, Plumbing Board, LR 17:53 (January 1991), LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 25:

§312. Medical Gas and Vacuum Systems Verifier

A. No natural person shall engage in the work of a medical gas and vacuum systems verifier unless he possesses a license or renewal thereof issued by this board. The board shall issue a medical and vacuum systems verifier license to any person who qualifies under the board's regulations and who desires to engage in the work or business of a medical gas and vacuum systems verifier if he passes a written and manual examination conducted by a

nationally recognized organization for this purpose and pays the fees established by the board.

B. As authorized by R.S. 37:1368(I), the board shall recognize and certify certain programs of education and training of medical gas and vacuum systems verifiers offered by private or public organizations or institutions. A natural person's satisfactory completion of any such program and related exit examination shall qualify him for licensing under §312.A of these regulations. Any such organization must satisfy the board that its program or programs meet the following criteria:

1. The program is conducted at a training facility and given to those members of the public that provide proof of training or experience in any aspect of the piping industry.

2. The program requires 32 hours of medical gas and vacuum systems training that meets criteria prescribed by the board and is included in the National Fire Protection Association (NFPA) 99 Gas and Vacuum Systems, latest edition, and American Society of Sanitary Engineers (ASSE), Series 6000, Standard 6030 (latest edition). Program testing must cover the following areas:

- a. the history of medical gas piping;
- b. application of ANSI/NFPA 99, as well as standards listed in Section 1.4 of ASSE Series 6000, Standard 6030 (latest edition), and all laws, codes, rules, listing agencies and regulations from federal, state and local jurisdictions;
- c. industry terminology, definitions and vocabulary;
- d. understanding of basic concepts pertaining to absolute pressure, atmospheric pressure, gauge pressure, static pressure, dynamic (flowing) pressure, vacuum measurement, pressure and vacuum sensors, alarm panel locations, alarm setting, oxygen deficiency, all piped medical gases and patient safety;
- e. identification of the parts and components of medical gas and vacuum systems and equipment, and their application and limitations with respect to health care facilities;
- f. description of the operating principles and performance characteristics of medical gas and vacuum pipeline systems and their components;
- g. description of the proper installation requirements for medical gas and vacuum pipelines systems relating to manufacturer recommendations, physical location, ventilation and accessibility, and local jurisdiction requirements;
- h. identification of failures and the possible causes for component failure of medical gas and vacuum systems;
- i. identification and description of the tests applicable to medical gas piping equipment, its physical operation, maintenance and calibration requirements;
- j. identification and description of the hazards and precautions required for field testing of medical gas and vacuum piping systems;
- k. understanding of test forms containing information described in ASSE Series 6000, Standard 6030 (latest edition), and its appendices.

3. The program must employ or utilize instructors who are certified as medical gas and vacuum systems verifiers by a governmental agency having jurisdiction over medical gas piping. In the absence of a governmental agency

exercising such jurisdiction, the board will recognize private or public organizations who have conducted 32-hour programs of training in the field of medical gas and vacuum system verification, including written and practical examination covering all facets of ASSE Series 6000, Standard 6030 (latest edition).

C. To be eligible for board certification pursuant to R.S. 37:1368(I), an interested organization providing medical gas and vacuum systems verification training and education must complete a written application on a form or forms supplied by the board. The board shall be entitled to receive timely information on the program or programs administered by such organization and background of instructors upon request at any time. The board, acting through its representatives, may also inspect the facility and observe the actual training and education programs used or offered by such organizations. Failure to cooperate with the board and its representatives may be grounds for denial or withdrawal of board certification of any such organization. The board may investigate complaints concerning such programs. Adverse administrative action affecting an organization's application for certification or its continued status as an organization certified by the board pursuant to R.S. 37:1368(I) will be subject to the Administrative Procedure Act.

D. An applicant for a medical gas and vacuum systems verifier license must attach to his application a money order or check for the appropriate fees established in §309 of these regulations.

E. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization certified pursuant to R.S. 37:1368(I), as evidence of successful completion of the examination necessary for the issuance of a license for medical gas and vacuum systems verifier. Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas described in §311B.2 of the regulations.

F. Any person, who at any time is cited by the board for working as a medical gas and vacuum systems verifier without possessing the necessary license issued by the board, shall be subject to a special enforcement fee as a precondition to any subsequent examination or licensing of any nature. The fee shall be in addition to the regular fees assessed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 25:

§313. Standards for Medical Gas and Vacuum Systems Verifiers

A. A medical gas and vacuum systems verifier shall not certify to any party the results of any tests on medical gas pipeline systems or equipment installed or repaired by any person not licensed by the board as a medical gas piping installer.

B. As a condition for licensing and renewal thereof, and subject to the disciplinary powers of the board under R.S. 37:1378(3) and (8), any person licensed by the board as a

medical gas and vacuum systems verifier shall be obligated to cooperate with the Louisiana State Fire Marshall and his agents in connection with his regulation of medical gas piping installation and systems verification.

C. The duties described in §313.B include the responsibility of a medical gas and vacuum systems verifier to timely and accurately report to the Fire Marshall the following as to any gas and vacuum system subject to his verification:

1. the successful completion of pressure testing of all manufactured assemblies for both positive gases and vacuum systems, as supplied by the manufacturer of any such systems, prior to this installation;

2. satisfactory cleaning of piping and fittings from the cleaning agency in accordance with the standard "Cleaning Equipment for Oxygen Service" (CGA G-4.1);

3. documentation of each board-licensed medical gas piping installer's Brazer Procedure Qualification Record and Braze Performance Qualification in accordance with NFPA 99 standard on Gas and Vacuum Systems, latest edition;

4. documentation of successful completion of the board-licensed installer's required testing, including a blowdown test, initial pressure test, cross-connection test, piping purge test and standing pressure test;

5. documentation of the verifier's successful completion of required testing, including cross-connection, valve test, outlet flow test, alarm testing, piping purge test, piping purity test, final tie-in test, operational pressure test, medical gas concentration test, medical air purity test and labeling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1336(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 25:

Chapter 8. Preemption

§801. Preemption of Municipal or Other Local Regulatory Authorities

A - B. ...

C. The board may enter into cooperative arrangements with the Louisiana Department of Health and Hospitals, the Louisiana State Fire Marshall or local governing authorities to aid in the enforcement of the board's regulations.

D. Nothing herein shall prohibit the board from receiving and acting under R.S. 37:1378(7) or (8) upon notices of adjudications of violations of Louisiana Department of Health and Hospitals regulations, Louisiana State Fire Marshall regulations, or local municipal or parish plumbing codes not otherwise preempted or superseded by the Plumbing Law or these regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, repromulgated as amended by Department of Employment and Training, State Plumbing Board, LR 17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 25:

Chapter 9. Revocation and Related Administration Proceedings

§901. Revocation, Suspension and Probation Procedures

A. All adjudication proceedings initiated pursuant to R.S. 37:1378 and conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq.

The term "licensee" as used in this Section, shall refer, where applicable, to the holder of a journeyman plumber, restricted journeyman plumber, master plumber, restricted master plumber, inactive master plumber, medical gas piping installer or medical gas and vacuum systems verifier license, and holder of a water supply protection specialist endorsement.

B. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by the Department of Employment and Training, Plumbing Board, LR 17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 25:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Don Traylor, Executive Director, 2714 Canal Street, Suite 512, New Orleans, Louisiana, no later than 5:00 p.m., November 19, 1999.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Gas and Vacuum Systems Verifiers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The board estimates \$8,175 in initial implementation costs associated with the licensing of medical gas and vacuum systems verifiers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board estimates the collection of \$2,400 (FY 99-00), \$2,500 (FY 00-01), and \$2,600 (FY 01-02) in licensing fees. The board is empowered to collect such fees to cover the cost of licensing. Act 1020 of the 1999 Regular Session also increased licensing and examination fees relative to other licenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The fees collected from affected applicants, estimated to be less than 20 persons annually through 2002, will be derived from persons seeking licensing as medical gas and vacuum system verifiers. These fees are authorized by Act 1020 of the 1999 Regular Session.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of new medical gas and vacuum systems verifier licensing and examination rules will enhance

competition, as it will provide statewide regulation of an important aspect of the plumbing industry and promote the development of quality private sector training and certification programs. The proposed regulation will also strengthen quality controls in private and public sector health care facilities.

Don Traylor
Executive Director
9910#065

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Board of Pardons

Hearing—Clemency
(LAC 22:V.109)

In accordance with the Administrative Procedure Act, LSA-R.S. 49:953(B), the Department of Public Safety and Corrections, Board of Pardons, hereby gives notice of intent to adopt amendments to rules and procedures dealing with the requirement for the publication of notice of application for clemency.

In accordance with the Administrative Procedure Act, LSA-R.S. 49:953(A)(1)(a)(viii) and LSA-R.S. 49:972, the Department of Public Safety & Corrections, Board of Pardons, hereby provides the Family Impact Statement. 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 V. Board of Pardons

Chapter 1. Applications

§109. Hearing Granted

A. After notice to a applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I (applicant's name), (document number), (date of birth), currently residing in (parish/county), (state), have applied for clemency for my conviction for (crime) which occurred (day/month/year), in (parish/county), (state). If you have any comments or wish to communicate with the Board of Pardons please call (225) 342-5421."

B. Applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:

Irvin L. Magri, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hearing—Clemency**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated costs associated with this amendment as the rule has been previously adopted and implemented pursuant to LSA-R.S. 15:572.4(C).

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 benefits directly affecting persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Bernard E. "Trey" Boudreaux
Undersecretary
9910#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Operating Standards; Video Draw Poker; Check Cashing
(LAC 42:IX.2919-2924, 42:XI.2415, 42:XIII.4001-4013)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:IX.2919 and adopt LAC 42:IX.2921 through 2924 to amend XI.2415 and to add XIII.4001-4013 in accordance with La. R.S. 27:15 and 24, and the Administrative Procedure Act, La. R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards

§2919. Advertising; Mandatory Signage

A. The Board may regulate and establish procedures for the regulation of advertising and marketing casino events and activities. Additionally, the board may require the casino operator or casino manager to advertise or publish specified information, slogans and telephone numbers relating to

avoidance and treatment of compulsive or problem gambling or gaming. The casino operator and casino manager shall immediately comply with any order of the board issued pursuant to this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), amended LR 25:

§2921. Entertainment Activities

A. No entertainment shall be offered within the designated gaming area unless the casino operator or casino manager receives approval from the Division to provide such entertainment.

B. The casino operator or casino manager shall file a written submission with the Division at least five days prior to the commencement of such entertainment, which shall include, at a minimum, the following information:

1. the date and time of the scheduled entertainment;
2. a detailed description of the type of entertainment to be offered;
3. the number of persons to be involved in the entertainment;
4. the exact location of the entertainment in the designated gaming area;
5. a description of any additional security measures that will be implemented as a result of the entertainment; and
6. a certification from the casino that the proposed entertainment will not adversely affect security, surveillance, the integrity of the gaming operations and the safety and security of persons in the casino.

C. The submission in Subsection B shall be deemed approved by the Division unless the casino is notified in writing to the contrary within five days of filing.

D. In reviewing the suitability of an entertainment proposal, the Division shall consider the extent to which the entertainment proposal:

1. may unduly interfere with efficient casino operations;
2. may unduly interfere with the security of the casino or any of the games therein or any restricted casino area; or may unduly interfere with surveillance operations; and
3. may unduly interfere with the safety and security of persons in the casino.

E. The Division, in its sole discretion, may grant ongoing approval for scheduled entertainment events that follow a set pattern. The duration of the approval shall be at the discretion of the Division.

F. The Division may at any time require the casino operator or casino manager to immediately cease any entertainment offered within the casino if the entertainment provided is materially different from the description contained in the submission filed pursuant to Subsection B above, or in any way compromises security, surveillance, the integrity of the gaming operations or the safety and security of persons in the casino.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2922. Promotions; Increased Slot Jackpots; Coupons and Scrip

A. All promotion programs that are in contravention of any gaming law or regulation are prohibited. All promotions, including, but not limited to, contests or tournaments that involve any coupon or scrip that impact the integrity of the games, the security, surveillance and well-being of persons in the casino or the calculation of gross gaming revenue shall be subject to prior written approval by the Division unless otherwise provided in these rules and regulations. The Division may alter or waive the requirements of regulations §2922-2923.4 upon a showing of good cause.

B. The increased portion of the payout or jackpot that results from promotional activities shall be considered a promotional expense and accounted for on the casino operator's or casino manager's books accordingly. The increased portion of the payout or jackpot shall not be included as winnings unless approved in advance. Winnings for the purposes of the definition of gross gaming revenue means the total amount delivered by a gaming device as win to a patron or the amount determined by the approved table game odds as win to a patron, exclusive of any double jackpots, increased payouts in addition to table game odds or other increased payouts that result from promotional activities, unless approved, in advance, by the Board. The increased portion of a jackpot that results from the promotion shall not be paid by the machine itself, but shall be paid manually.

C. Request for approval shall be made in writing and received by the Division at least ten days prior to the commencement of the promotion. Request for approval shall include, at a minimum, a description of the proposed coupon or scrip, the dates that the promotion will be available to patrons, the proposed use of the coupon or scrip and the method of accounting. If approval is granted, the casino operator or casino manager shall adopt internal controls as prescribed by the Division.

D. Other promotions not specified in §§922-2924 shall require that the casino operator or casino manager give and the Division receive thirty days written notice of the promotion, unless a shorter time is approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2923. Tournaments

A. All tournaments conducted in the casino are subject to prior written approval by the Division.

1. A tournament is a contest or event wherein persons play a game or games previously authorized by the Division in competition with each other to determine the winner of a prize or prizes.

2. A tournament shall include, but is not limited to, any contest or event wherein an entry fee is paid to play a game previously approved by the Division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. Unless a shorter time is approved by the Division, a request for approval of a tournament shall be made in writing and received by the Division at least thirty days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament; the manner of entry; a description of those

persons eligible to enter the tournament; the entry fee assessed, if any; the prizes to be awarded; the manner in which the prizes are to be awarded and the dates of the tournament. The Division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming revenue. Cash prizes awarded in tournaments shall be deducted as payouts for the purposes of calculating gross gaming revenue. Neither the value of noncash prizes nor the cost thereof shall be deducted in the calculation of gross gaming revenue. No other deductions shall be made for the purposes of calculating gross gaming revenue.

5. All entry fees and cash prizes shall be reported on the gross gaming revenue report in a manner approved by the Division. Copies of source documents such as transfer slips of the participants' entry fees to either the vault or cage and transfer slips of the participants' winnings paid out from either the cage or the vault must accompany the gross gaming revenue report on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and retained in accordance with the rules and regulations concerning record retention in Chapter 27.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§2924. Giveaways and Drawings

A. The casino operator or casino manager are allowed to give away prizes and cash awards by means of drawings of any kind only under the following circumstances.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Persons eligible to receive anything, including cash, shall not be required to purchase anything, including the purchase of chips or tokens from the casino or from any other business, nor shall they be required to participate in any gaming activity or be required to put up anything of value or pay an entry fee.

3. Participation in drawings of any kind shall be made available to the general public. If entry forms are required they shall be conveyed to the general public in a prominent manner. Such forms may be made available in the casino, but shall not be perfunctorily distributed to patrons.

4. The casino operator or casino manager shall give, and the Division shall receive, at least five-days written notice, exclusive of weekends and holidays, of drawings of any kind. Such notice shall describe the drawing in detail including the manner in which a person becomes eligible to receive anything to be given away. The notice shall also provide the full name, telephone number, and complete address of the contact person who has authority to make decisions relative to the drawing.

5. The Division may disapprove a drawing at any time. If the Division disapproves a drawing, then it may not be conducted. If a drawing of any kind is already underway, it shall be discontinued upon notice of disapproval by the

Division. Disapproval does not need to be in writing to be effective, but any oral disapproval must be followed by written notice of the disapproval within three days of the oral disapproval.

B. In connection with any promotional program conducted by the casino operator or casino manager, the person conducting the promotional program shall comply with any and all requirements and restrictions contained in Louisiana law including, without limitation:

1. Charitable Gaming Laws, R.S. 33:4861.1-4861.28 and R.S. 40:1485.1-1485.11 and the regulations adopted pursuant thereto; R.S. 27:260 relating to underage gaming and the regulations adopted pursuant thereto; restrictions imposed by Chapter 37 of these regulations; and any other requirements or restrictions imposed by law or these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2415. Gaming Establishments

A. - C.3 ...

D. Structural Requirements for Licensed Establishments

1. - 3.d. ...

4. A qualified truck stop facility shall have sufficient parking to accommodate at least fifty eighteen-wheel tractor motor vehicles and loads. The parking area including stalls and travel lanes, shall meet the following requirements and consist of the following dimensions regardless of the parking area layout.

a. Parking stalls shall be a minimum of twelve feet wide and sixty-five feet long.

b. Parking area travel lanes shall be a minimum of seventy-five feet wide, free from any motor vehicle traffic maneuvering obstruction.

c. The parking stalls and travel lanes shall be distinctly and clearly striped with yellow paint or other material to delineate traffic use. The ingress and egress points shall be properly and clearly marked.

d. The parking area design, plans and construction shall be in compliance with all applicable federal, state, and local laws and regulations.

e. The parking area and travel lanes shall be constructed of asphalt or concrete in accordance with a design and plans prepared by a registered civil engineer.

f. The licensee or applicant shall submit to the division written certification from the registered civil engineer that construction was in accordance with the design and plans.

g. The parking area and travel lanes shall be constructed in accordance with published design procedures of the Portland Cement Association or Asphalt Institute, as applicable.

h. The parking area and travel lanes shall be capable of supporting an 18,000 pound per single axle load for the number of repetitions recommended by the registered civil engineer based upon traffic studies conducted by appropriate industry, engineering or governmental entities.

5. The division may request additional documentation and require additional testing as it deems appropriate to

ensure that all of the requirements of the Act and this Section are complied with.

E.1. - 3.

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 the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 25:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming

Enforcement Division

Chapter 40. Designated Check Cashing

Representatives

§4001. Definitions

Check Cashing Cage—the check cashing area on a riverboat not located within the designated gaming area to be accessed by the designated check cashing representative or its employees for the purposes of cashing checks and making credit card advances.

Designated Check Cashing Representative—a person designated by the licensee and permitted by the division to oversee and assume responsibility for cashing patrons' checks and facilitating credit card cash advances to patrons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§4002. Application for Permit for Designated Check Cashing Representative; Additional Requirements; Summary of Proposed Operations

A. The Division may require any applicant for a permit to conduct check cashing and credit card advance services pursuant to the provisions of this Chapter to provide the division with a summary describing the financial, internal, and security aspects of the proposed check cashing and credit card advance operations, including but not limited to:

1. accounting and financial controls, including the procedures to be utilized in counting, banking, storage and handling of cash;

2. procedures, forms, expense and overhead schedules, cash equivalent transactions, salary structure and personnel practices;

3. job descriptions and a system of personnel and chain of command, establishing a diversity of responsibility among employees engaged in operations and identifying primary and secondary supervisor positions for areas of responsibility;

4. procedures within the check cashing cage for the receipt, storage, and disbursement of cash and other cash equivalents;

5. procedures and security for the counting and recordation of transactions;

6. procedures for the cashing and recordation of checks exchanged by customers of the designated check cashing representative;

7. procedures governing the utilization of the licensee's security force within the check cashing cage.

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:

§4003. Cash Transaction Reporting

A. A designated check cashing representative shall report a cash transaction reporting violation to the division immediately upon obtaining knowledge by the designated check cashing representative of the violation.

B. Violation of check transaction reporting requirements in other states by a designated check cashing representative shall be reported to the division within thirty days of the notice of violation in the other jurisdiction.

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:

§4004. General Requirements

A. The check cashing cage may be accessed by security personnel of the licensee and personnel from the division upon presentation of proper identification.

B. The designated check cashing representative shall be a single source provider for these services and these responsibilities shall not be assigned or subcontracted to any party.

C. The designated check cashing representative shall not issue credit or credit instruments, chips, markers, counter checks, tokens or electronic cards which may be used directly in gaming on the riverboat.

D. The designated check cashing representative shall be located on the riverboat in an area not within the designated gaming area and shall not participate in management or operations of any riverboat gaming operations or activity.

E. The designated check cashing representative shall be located in a designated check cashing cage.

F. No employee of the designated check cashing representative shall be an employee of any licensee.

G. The designated check cashing representative shall maintain detailed records of all returned checks.

H. The designated check cashing representative shall maintain work papers supporting the daily reconciliation of cash and cash equivalent accountability.

I. The designated check cashing representative shall maintain detailed records required to be maintained by the division.

J. The division may review records of the designated check cashing representative at any time upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§4005. Imposition of Sanctions

The Division may impose any sanction authorized by the act for violation of the designated check cashing representative's internal controls as 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 25:

§4006. Record Retention

Each designated check cashing representative shall provide the division, upon its request, with the records required to be maintained by the act or these rules. Unless a

shorter time period is approved by the division in writing, each designated check cashing representative shall retain all records for a minimum of five years.

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:

§4007. Clothing Requirements

A. Designated check cashing representative's employees shall not bring purses, handbags, briefcases, bags or any other similar item into the check cashing cage unless it is transparent.

B. No employee shall wear clothing with pockets or other components.

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:

§4008. Internal Controls; Designated Check Cashing Representative

A. Each designated check cashing representative shall establish and implement, beginning the first day of operations, administrative and accounting procedures for the purpose of exercising effective control over the designated check cashing representative's internal physical affairs. The procedures shall be implemented to reasonably insure that:

1. all assets are safeguarded;
2. financial records are accurate and reliable;
3. transactions are performed only in accordance with the designated check cashing representative's internal controls as approved by the division;
4. access to assets is permitted only in accordance with the designated check cashing representative's internal controls as approved by the division;
5. functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

B. Each designated check cashing representative shall describe, in such manner as the division may approve or require, its administrative and accounting procedures in detail and a written system of internal controls. Each designated check cashing representative shall submit a copy of its written system to the division for approval prior to commencement of the designated check cashing representative's operations. Each written system shall include:

1. an organizational chart depicting appropriate segregation of functions and responsibilities;
2. a description of the duties and responsibilities 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 Subsection A;
4. a written statement signed by an officer of the designated check cashing representative attesting that the system satisfies the requirements of this section;
5. other information as the division may require; and
6. a flow chart illustrating the information required in Subsections 1, 2 and 3 above.

C. Each designated check cashing representative shall establish and provide, at the request of the division, the following:

1. an income statement summarizing the revenue and expenses of the entire check cashing cage operation;

2. summary credit card cash advance transaction information:

- a. number of transactions per day;
- b. total amount advanced by day; and
- c. fee revenue generated by day;

3. summary check cashing transaction information:

- a. number of transactions per day;
- b. total amount advanced by day; and
- c. fee revenue generated by day;

4. return check information:

- a. total amount of returned checks per month; and
- b. total amount of collections per month.

D. The designated check cashing representative shall not implement its initial system of internal control procedures unless the division determines that the designated check cashing representative's proposed system satisfies Subsection A, and approves the system in writing.

E. The designated check cashing representative shall provide to the division a monthly report detailing all insufficient fund checks. The report required under this subsection shall be submitted to the division within fifteen days of the end of each month.

F. Prior to changing any procedure required by this chapter to be included in the designated check cashing representative's internal control system, the designated check cashing representative shall obtain written approval by the division in the manner prescribed for obtaining approvals in Chapter 29.

G. The internal control system adopted by the designated check cashing representative and approved by the division shall be incorporated into the licensee's internal controls. A violation of any part of the approved internal control system committed by an employee of the designated check cashing representative shall constitute a violation by the designated check cashing representative and shall also constitute a violation by the licensee. The licensee may be sanctioned in the same manner as the designated check cashing representative for such violation.

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:

§4009. Internal Controls; Cage and Credit

Each licensee shall maintain a main bank which will serve as the financial consolidation of transactions relating to all gaming activity. Each casino cage or check cashing cage shall comply with the following minimum requirements:

A. All transactions that flow through the check cashing cage shall be summarized on a cage accountability form on a per shift basis.

B. Personal checks or cashier checks shall be cashed at the cage cashier or at the check cashing cage by the designated check cashing representative and subjected to the following procedures:

1. examine and record at least one item of patron identification;
2. record a bank number and social security number on all check transactions.

C. The cashier or designated check cashing representative shall comply with examination and documentation procedures as required by the issuer.

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:

§4010. Currency Transaction Reporting

A. Each designated check cashing representative shall be responsible for proper reporting of certain monetary transactions to which it is a party to the federal government as required by the Bank Records and Foreign Transactions Act (Public Law 91-508), commonly referred to as the "Bank Secrecy Act" as codified in Title 31 Section 5311-5323, and Title 12 Sections 1730 d, 1829, and 1951-1959. Specific requirements concerning record keeping and reports are delineated in Title 31 CFR 103 and shall be followed in their entirety. The Bank Secrecy Act and the rules and regulations promulgated by the federal government pursuant to the Bank Secrecy Act as they may be amended from time to time, are adopted by reference and are to be considered incorporated herein.

B. Civil and/or criminal penalties may be assessed by the federal government for willful violations of the reporting requirements of the Bank Secrecy Act. These penalties may be assessed against the designated check cashing representative, as well as any director, partner, official or employee that participated in the above referenced violations.

C. All employees of the designated check cashing representative shall be prohibited from providing any information or assistance to patrons in an effort to aid the patron in circumventing any and all currency transaction reporting requirements to which it is a party.

D. Designated check cashing representative employees shall be responsible for preventing a patron from circumventing the currency transaction reporting requirements if the employee has knowledge, or through reasonable diligence in performing their duties, should have knowledge of the patron's efforts at circumvention.

E. For each required Currency Transaction Report, a surveillance photograph of the patron shall be taken and attached to the licensee's or the designated check cashing representative's copy of the Currency Transaction Report. The employee consummating the transaction shall be responsible for contacting the surveillance department employee. The designated check cashing representative shall maintain and make available for inspection all copies of Currency Transaction Reports which it has prepared, with the attached photographs, for a period of 5 years. The designated check cashing representative shall be responsible for maintaining a transaction log in compliance with all requirements of Section 2731.G.

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:

§4011. Internal Controls Compliance

The designated check cashing representative shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the act and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§4012. Servant of Licensee

The designated check cashing representative shall be considered a servant of the licensee for the limited purpose of R.S. 27:101 and shall not cash any of the checks identified in that section and will be subject to the enforcement provisions of that section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§4013. Violations by the Designated Check Cashing Representative

A violation of any applicable statute or rule by the designated check cashing representative shall constitute a violation of such statute or rule by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

All interested persons may contact Thomas A. Warner, III, Attorney General's Gaming Division, telephone number (225) 342-2465, and may submit written comments relative to these proposed rules through November 9, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

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 amendments to LAC 42:IX.2919, additions of 2921-2924, amendments to XI.2415, and addition of XIII.4001 et seq.

It is accordingly concluded that the amendments to 42:IX.2919, additions of 2921-2924, amendments to XI.2415, and addition of XIII.4001 et seq. would appear to have no impact on any of 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.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Operating Standards; Video Draw Poker; Check Cashing

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 amendment of LAC 42:IX.2919 and addition of 2921 et seq. may result in some increased workload to the Landbased Division 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. The amendment to 42:XI.2415 and the addition of 42:XIII.4001 et seq. should have no cost effect on state or local governments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on revenue collections can be estimated. It is unknown whether revenue collections will increase as a result of the amendment of LAC 42:IX.2919 and addition of 2921 et seq. To what extent violations of these proposed regulations will be committed by licensees cannot be projected.

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. The amendments to LAC 42:XI.2415 may result in increased costs to qualified truck stop establishments in the nature of additional construction materials and engineering certifications. However, the number of truck stops which may be affected by the rule change and the extent of increased costs cannot be reasonably projected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated

Hillary J. Crain
Chairman
9910#010

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Compulsory Insurance
(LAC 55:III.1777 and 1781)**

The Department of Public Safety and Corrections, Office of Motor Vehicles, pursuant to the authority contained in R.S. 32:863.2, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., proposes to amend LAC 55, Part III, Chapter 17, Subchapter B, §§ 1777 and 1781.

Section 1777 is being amended to add a new transaction type in order to comply with Act No. 74 of the 1999 Regular Session which enacted R.S. 32:863(A)(6) to provide that there shall be no sanctions imposed when an insurance policy is canceled because of the rescission of the sale of the involved motor vehicle. Section 1781 is being amended to provide for an additional method by which security providers can report insurance coverage information.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 17. Compulsory Insurance

Subchapter B. Reporting of Initiation and Any Subsequent Change of Insurance Coverage

§1777. Transaction Types and How the Transaction Types are Used

A.1. - 5. ...

6. 7 = Termination of a motor vehicle liability policy that occurred as a result of the rescission or other cancellation of the sale of the motor vehicle on which the policy was issued. The insured shall not be required to pay any fees that otherwise may be required by R.S. 32:863 when the insurer uses this code to report a cancellation.

B.1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1775 (September 1998), amended LR 26:

§1781. Reporting Methods

A. - C. ...

D. Section 1781.C shall also not apply to security providers who have:

1. received written approval from the Department to file reports via the Internet, and

2. entered into a written agreement with the Department to indemnify the Department against any loss which might arise out of transmitting the data over the Internet.

E. The reports submitted to the Department pursuant to Section 1781.D and E shall be formatted in the manner approved by the Department and shall include the following information:

1. the make, model, year and vehicle identification number to the subject vehicle;

2. the insurance company code;

3. the type of transaction;

4. the lessee, renter, or owner address, including city, state, and zip code;

5. the policy or binder number;

6. the termination, or change date, or the effective date and the issue date; and

7. the lessee, renter, or owner name, name indicator, and identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1776 (September 1998), amended LR 26:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Monday, November 22, 1999. A public hearing on these rules is tentatively scheduled for Monday, November 29, 1999, at 10:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These rules should not affect the stability of the family. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules should not affect the authority and rights of parents regarding the education and supervision of their children. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

3. The Effect of These Rules on the Functioning of the Family. These rules should not affect the functioning of the family. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

4. The Effect of These Rules on Family Earnings and Family Budget. These rules should not affect family earnings and family budget. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These rules should not affect the behavior and personal responsibility of children. These rules only amend existing rules regarding the reporting of insurance coverage information to the Office of Motor Vehicles by insurance providers.

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 do not require the family or local government to perform any function.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Compulsory Insurance**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no implementation costs or savings to the Department. This is an existing program. The changes proposed in these sections are only minor changes. The first change only requires the addition of an additional reporting code which is a simple computer programming modification. The second change creates an additional method for insurance companies to report insurance coverage to the Department. The three current methods are: (1) sending the information to an electronic mail box, manual filings, and fleet filings. This new method will allow the reporting to be accomplished electronically over the Internet. As indicated in the previous sentence, the Department already is set up to receive the information electronically. This change simply permits the Department to download the information electronically from another source.

There should be no costs or savings to local governments as insurance companies only report this information to the Department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of the state as this program does not raise revenue except in the limited instance of a fine imposed on an insurance company by the Department for failing to properly report insurance coverage information. There should be no effect on the revenue collections of local governments as insurance companies only report this information to the Department.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no effect on costs and there should be no economic benefit to directly affected persons or non-governmental groups as it relates to the additional cancellation code. Insurance providers were already having to report insurance cancellations to the Department. This code change simply provides them with an additional option of how to report a cancellation.

There should be some economic benefit to those insurance companies who choose to report insurance coverage information electronically via the Internet as opposed to electronic mail. The exact savings involved in reporting via the Internet cannot be determined as it depends on the individual company's cost to access the Internet, and the frequency and number of insurance reports submitted to the Department.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment. The new reporting code is available to all insurance companies to use in complying with R.S. 32:863.2. Likewise, the new reporting method will be available to all insurance companies.

Nancy Van Nortwick
Undersecretary
9910#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Office of Motor Vehicles**

License Plates
(LAC 55:III.325 and 327)

Under the authority of R.S. 47:511 and R.S. 47:508, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of Motor Vehicles (Department), hereby gives notice of intent to adopt new rules regarding the adoption of the International Registration Plan and the issuance of permanent metal plates to commercial motor vehicles registered under the International Registration Plan.

This proposed rule adopts the International Registration Plan by reference. The International Registration Plan authorizes the apportioned registration of fleets of vehicles among the various jurisdictions in which the vehicles are operated. This plan provides that for one license plate even though the motor vehicle is registered in more than one jurisdiction. Louisiana was approved to participate in the plan on December 1, 1975, and began participating in the plan on April 1, 1976.

The other proposed rule is pursuant to R.S. 47:508 and authorizes the Department to issue permanent metal plates to commercial motor vehicles registered pursuant to the plan. These plates are to be renewed without the issuance of renewal stickers, tabs, or emblems.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter A. Types of License Plates

§325. International Registration Plan

The Department of Public Safety and Corrections, Office of Motor Vehicles, hereby adopts by reference, the International Registration Plan, hereinafter referred to as the plan, adopted in August 1994 and as revised through February 15, 1999 by the member jurisdictions, and published by International Registration Plan, Inc. The Department only adopts the articles and sections contained in the agreement, as well as the exceptions to the plan as reflected in the February 15, 1999 revision and included in Appendix C of the plan. The commentary and governing board decisions included with the adopted plan shall not be part of this rule, but may be considered by the Department in interpreting and implementing the various sections of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:511.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§327. Apportioned Plates

A. All commercial motor vehicles registered pursuant to the "International Registration Plan" and issued an apportioned license plate shall be issued a permanent metal license plate at the time of first issuance, or at the time of first renewal of the apportioned registration after the effective date of this rule.

B. The permanent metal plate issued pursuant to §321.A shall be renewed annually, but without the issuance of a renewal emblem, sticker, or tab by the Department of Public Safety and Corrections, Office of Motor Vehicles. The Department shall issue a renewed certificate of registration or other credential to indicate that the metal plate attached to, and displayed by, the commercial motor vehicle is still valid. The original or a copy of the renewed certificate of registration or other credential shall be kept with the commercial motor vehicle described in the certificate or other credential.

C. The initial certificate of registration or other credential, as well as all renewed certificates of registration or other credentials, shall not be issued until all fees and taxes, together with any applicable penalties and interest, as are required by statute, are paid by the applicant.

D. A permanent metal plate issued pursuant to this section may be used for a period of five years if properly and timely renewed. After the expiration of the fifth year, the registrant shall replace the old plate with a new plate issued by the Department. The registrant shall cause the old plate to be destroyed. The failure to comply with this paragraph may result in the imposition of a fine of \$25 per plate. The Assistant Secretary for the Office of Motor Vehicles may, for good cause, extend the replacement period provided in this section. Such a request for extension shall be in writing and

shall state the reason for the extension of the replacement period. Only one extension pursuant to this section may be granted, and the granting of an extension shall be in writing. An extension granted pursuant to this section shall not exceed two years.

E. For purposes of §327, the Department interprets the Interstate Registration Plan described in R.S. 47:508(H), to mean the "International Registration Plan" described in R.S. 47:511, and adopted by the Department by reference in §325.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:508(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Monday, November 22, 1999. A public hearing on these rules is tentatively scheduled for Monday, November 29, 1999, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Family Impact Statement

1. The Effect on the Stability of the Family. These rules should not affect the stability of the family. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules should not affect the authority and rights of parents regarding the education and supervision of their children. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

3. The Effect on the Functioning of the Family. These rules should not affect the functioning of the family. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

4. The Effect on Family Earnings and Family Budget. These rules should not affect family earnings and family budget. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

5. The Effect on the Behavior and Personal Responsibility of Children. These rules should not affect the behavior and personal responsibility of children. The rules are only applicable to businesses which operate commercial motor vehicles registered pursuant to the International Registration Plan and issued an apportioned license plate.

6. The Effect on the Ability of the Family or Local Government to Perform the Function as Contained in the

Proposed Rule. These rules do not require the family or local government to perform any function.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: License Plates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no savings or increased costs in connection with adoption of LAC 55, Part III, Chapter 3, Subchapter A, §325 as the International Registration Plan (IRP) is an existing program in which the Department has participated since 1976.

The Department will realize a cost savings in connection with the issuance of permanent metal plates to commercial motor vehicles registered pursuant to the International Registration Plan (IRP). Under the current scheme, a new metal plate is issued to each motor vehicle at the time of initial registration and at each subsequent renewal. Under the proposed rule, LAC 55, Part III, Chapter 3, Subchapter A, §327 the Department will no longer incur the cost of having to make new metal plates for renewed registrations until the original plate reaches the age of five years old. After five years, the material on the plate tends to lose its reflective qualities making it harder for law enforcement and others to read the plate. The total cost savings cannot be determined as the Department does not track the number of new plates versus renewals, but there will be savings in materials and mailing expenses. The current cost of a plate is \$1.54 and the current postage cost to mail one plate is \$1.21.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governments. Neither the proposed rules nor the enabling statutes change the manner in which state or local sales and use taxes are collected. The registration license tax due at the initial registration and at each subsequent renewal is also unchanged.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs and/or economic benefit to directly affect persons or nongovernmental groups in connection with the proposal to adopt §325. This section simply recognizes an existing program as explained above. There will be no costs or benefits associated with this section.

The owners/operators of commercial motor vehicles will benefit from the proposed §327 as it will no longer be necessary to match a metal plate to a specific motor vehicle each year. In many cases, the specific motor vehicle may not be in Louisiana at the time the current metal plate expires. This proposal will allow the owner/operator to send a copy of the renewed certificate of registration to wherever the vehicle is located at the time of the renewal instead of having to forward a metal plate or wait for the vehicle to return to Louisiana for the plate to be attached.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of these proposals as there are no changes in any aspect of the IRP, except that a commercial vehicle may retain the same plate for five years.

Nancy Van Nortwick
Undersecretary
9910#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Explosive Code (LAC 55:I.Chapter 15)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 40:1472.1 et seq., gives notice of its intent to amend LAC 55:I.Chapter 15 to provide authority for the Department's granting variances from the rules in addition to redefining certain terms used therein and clarifying certain technical requirements concerning the use of explosives.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 15. Explosive Code

§1501. Scope of Rules and Regulations

A. - D. ...

E. The licensee, on specific approval in writing by the Deputy Secretary of Public Safety Services, as provided by this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in these Rules and Regulations. The Deputy Secretary of Public Safety Services may approve an alternate method or procedure, subject to stated conditions, when he/she finds that:

- 1. good cause is shown for the use of the alternate method or procedure;
- 2. the alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and
- 3. the alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the State of Louisiana or hinder the effective administration of these Rules and Regulations.

F. Where the licensee desires to employ an alternate method or procedure, he/she shall submit a written application to the Deputy Secretary of Public Safety Services. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Deputy Secretary of Public Safety Services. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Deputy Secretary of Public Safety Services, the effective administration of these Rules and Regulations is hindered by the continuation of the authorization. As used in this paragraph, alternate methods or procedures include alternate construction or equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety

Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1503. Definitions

* * *

Inhabited Building—any building or structure regularly used in whole or part as a place of human habitation, also any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding buildings or structures occupied in connection with the manufacture, transportation, storage and use of explosives. A building, such as an office building or repair shop, which is part of the premises of an explosives licensee and is used in connection with the manufacture, transportation, storage, or use of explosives is not an inhabited building.

* * *

Oxidizer—any material that may, generally by yielding oxygen, cause or enhance the combustion of other materials.

* * *

Primary Licensee—is the responsible party holding a valid manufacturer-distributor, dealer or user license.

* * *

Secured Area—any location that is either locked or under the immediate control of a licensee.

* * *

Temporary—no more than forty-eight hours.

* * *

Vessel—any description of watercraft used or capable of being used as a means of transportation on water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1507. Blasting Agents

A. - M. ...

N. Metal dusts (aluminum powder, etc.) peroxides, chlorates or perchlorates shall not be used unless such operations are conducted in a manner approved by the Deputy Secretary of Public Safety Services.

O. - T. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1509. General Storage Requirements

A. - C. ...

D. The ground around outdoor magazines shall slope away for drainage. The land surrounding outdoor magazines shall be kept clear of brush, dried grass, leaves, and other combustible materials for a distance of 25 feet in each direction.

E. - G. ...

H. When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways and highways; and in addition, they shall be separated from each other by not less than the distances shown for Separation of Magazines, (Table 1) except that the quantity of explosives contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified Separation of Magazines (Table 1) distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways and highways.

1. All types of detonators in strengths up to and including No. 8 detonators shall be rated at 1.5 pounds of explosives per 1,000 caps. Detonating cord, 50 grains, shall be rated at 8 pounds of explosives per 1,000 feet. Detonating cords with larger or smaller grains per foot will be rated proportionately.

2. Explosive operations carried out on a vessel shall be required to comply with the distances shown for Separation of Magazines (Table 1) only as the physical limitations of the vessel will permit. Explosive magazines shall not be located under, over, or immediately adjacent to pressurized gas lines or high voltage power lines, or on levees constructed for major flood control.

I. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1511. Magazine Construction Requirements

A. - K.2. ...

3. Explosive materials are not to be left unattended in Type 3 magazines and must be removed to Type 1 or Type 2 magazines. This requirement does not apply to offshore operations as previously defined.

L. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:105 (January 1998), LR 25:

§1513. Storage within Magazines

A. - E. ...

F. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside of or within 50 feet of magazines. Flammable materials shall not be stored within 50 feet of magazines.

G. - H. ...

I. The keys to a primary licensee's magazine doors and covers must be available only to the primary licensee and one of his blasters. Variances to this requirement may be requested in writing to the Deputy Secretary of Public Safety Services. It is the primary licensee's responsibility to keep his magazine locked from all unauthorized persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 25:

§1531. General Requirements

A. - F. ...

G. When blasting is done in congested areas or in close proximity to a structure, railway, or highway or any other installation that may be damaged, the blast shall be covered before firing with a mat so constructed that it is capable of preventing fragments from being thrown. When such blasting is being carried out near a highway, the operator may, in lieu of using a mat, and with the permission of local authorities, block the road adjacent to the firing area while such firing is in progress. The Deputy Secretary of Public Safety Services must be notified in advance, and approval received, prior to this type of blasting operation being conducted.

H. ...

I. Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution, which may include but is not limited to warning signals, flags, barricades, or blasting mats approved by the Deputy Secretary of Public Safety Services, to insure the safety of the general public and workmen.

J. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), LR 25:

Interested persons may submit written comments to: Paul Schexnayder, Post Office Box 66614, Baton Rouge, Louisiana 70896-6614. Written comments will be accepted through November 15, 1999.

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.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Explosive Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of these rules will have no estimated costs associated therewith. However, the rules and regulations will be printed and distributed at a cost of \$5,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These rules will result in an insignificant loss of revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Nancy Van Nortwick
Undersecretary
9910#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Underground Utilities (LAC 55:I.Chapter 21)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, in accordance with R.S. 49:950 et seq., and R.S. 40:1749.23E, gives notice of its intent to adopt rules pertaining to the enforcement of the underground utilities statutes, R.S. 40:1749.11 et seq.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 21. Underground Utilities

§2101. Purpose

It is the purpose of these rules to promote the protection of property, workmen, and citizens in the immediate vicinity of an underground facility or utility from damage, death, or injury and to promote the health and well-being of the

community by preventing the interruption of essential services which may result from the destruction of, or damage to, underground facilities or utilities. The purpose of this rule is to further provide for the enforcement of the Louisiana Underground Utilities and Facilities Damage Prevention Law. An advisory committee composed of representatives from the relevant industries, state government, and the regional notification centers shall be formed to assist in implementation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2103. Definitions

A. For the purposes of these rules, the following terms shall have the meanings ascribed to them in this Section:

Damage—any defacing, scraping, gorging, breaking, cutting, or displacement of, impact upon or removal of an underground facility or utility or its means of primary support.

Demolisher—any person engaged in the act of demolishing as defined in R. S. 40:1749.12(2).

Demolition—the total or partial wrecking, razing, rendering, moving, or removing of any building or structure, movable or immovable.

Department—the Department of Public Safety and Corrections, Public Safety Services.

Emergency—any crisis situation which poses an imminent threat or danger to life, health, or property and requires immediate action.

Excavation or Excavate—any operation for the purpose of movement or removal of earth, rock, or other materials in or on the ground by the use of powered or mechanical or manual means, including pile driving, digging, blasting, auguring, boring, back filling, dredging, compressing, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing.

Excavator—any person who engages in excavation operations.

Inclement Weather—weather that prohibits or impedes a worker's use of his locating equipment or causes undue risk to himself or his equipment such as lightning, heavy rain, tornadoes, hurricanes, floods, sleet, snow, or flooding conditions.

Mark by Time—the date and time provided by the regional notification center by which the utility operator is required to mark the location or provide information to enable an excavator, using reasonable and prudent means, to determine the specific location of the facility as provided for in R.S. 40:1749.14(D).

Operator—any person, individual, governmental agency or political subdivision or their agents, joint venture, firm, partnership, association, or corporation who owns or operates, a public or private underground facility or utility which furnishes a service or material or stores, transports, or transmits electric energy, steam, oil, natural gas, gas, mixture of gases, petroleum, petroleum products, hazardous or flammable fluids, toxic or corrosive fluids/gases, including telephone or telegraph system, fiber optic electronic communication systems, or water or water systems, or drainage, sewer systems, or traffic control systems or other items of like nature.

Person—an individual, firm, partnership, association, corporation, joint venture, municipality, governmental agency, political subdivision, or agent of the state or any legal representative, thereof.

Regional Notification Center—may be any one of the following:

a. an entity designated as nonprofit by the Internal Revenue Service under Section 501(c)(4) of the Internal Revenue Code and which is organized to protect its members from damage and is certified by the Department of Public Safety and Corrections in accordance with the Chapter; or

b. an organization of operators, consisting of two or more separate operators who jointly have underground facilities or utilities in three or more parishes in Louisiana, which is organized to protect its own installation from damage, and has been certified by the Department of Public Safety and Corrections in accordance with this Chapter; or

c. an operator who has underground facilities or utilities in a majority of parishes in Louisiana and is organized to protect its own installation from damage, and has been certified by the Department of Public Safety and Corrections in accordance with this Chapter.

Service Line or Lines—underground facilities or utilities which provide power, gas, natural gas, communication or water capabilities to a building or structure of buildings or group of structures.

Underground Facility or Utility—any pipe, conduit, duct, wire, cable, valve, line, fiber optic equipment, or other structure which is buried or placed below ground or submerged for the use in connection with storage, conveyance, transmission or protection of electronics communication system, telephone or telegraph system, or fiber optic, electric energy, oil, natural gas, gases, steam, mixture of gases, petroleum, petroleum products, hazardous or flammable fluids/gases, toxic or corrosive fluids/gases, hazardous fluids/gases or other substances of like nature or water or water systems, sewer systems, or traffic, drainage control systems, or other items of like nature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2105. Regional Notification Certification Process

A. The regional notification program must have or be able to demonstrate the following:

1. toll free nationwide telephone number;
2. specifically defined geo-political service area with a goal of no overlap;
3. mechanism for law enforcement to verify locate request information;
4. establish a formal member contractual agreement and submit for approval;
5. locate request tracking process that includes a specific numbering system for each locate request;
6. provide timely transmission of notifications to facility owner/operator;
7. provide locate request information upon inquiry by law enforcement;
8. establish a process to handle emergency locate requests;
9. validation process for owner/operator member's map data base;

10. agree to participate in the Underground Utilities/Facilities Damage Prevention Advisory Committee;

11. develop standard operating procedures and training manuals for routine and emergency operations;

12. voice recording of all incoming locate request calls and voice out calls;

13. ability to produce records of all outgoing notification calls;

14. record retention procedures in compliance with R.S. 40:1749.13;

15. establish a pro-active public awareness and damage prevention education.

B. Upon establishing its ability to meet the above requirements, the regional notification center shall be certified by the Department.

C. The Department may charge a fee for the certification process of two thousand five hundred dollars.

D. An entity operating in this state as an authorized regional notification center prior to and upon the effective date of this Subsection shall have six months from the date of final adoption of these rules and regulations to seek and obtain compliance certification from the Department of Public Safety and Corrections. Failure to obtain such certification shall result in the cessation of activities by the regional notification center.

E. Any entity not operating in this state as an authorized regional notification center prior to and upon the effective date of this Subsection shall obtain compliance certification from the Department of Public Safety and Corrections prior to performing the operations of a regional notification center in or for this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2107. Citation

The citation issued to a party alleged to be in violation of R. S. 40:1479 et seq. or these rules shall be uniform as developed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2109. Collection of Data by the Department

The Department shall collect such data that will allow law enforcement agencies to determine the number of existing violations and the results of the adjudication process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2111. Establishment of Local Governmental Enforcement

Pursuant to R. S. 40:1749.11 et seq. and these rules, local government shall have the authority to enforce any and all provisions therein, except the certification process for the regional notification center and the establishment of the uniform citation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2113. Civil Penalties

A. A person who is required by this Part to become a member of, participate in, or share the cost of, a regional notification center and who fails to do so shall be subject to a civil penalty of not more than two hundred fifty dollars for the first violation and not more than one thousand dollars for each subsequent violation. A subsequent violation shall be deemed to have occurred if the person fails to become a member of, participate in, or share the cost of, a regional notification center as required within ninety days after issuance of a citation for the previous violation.

B. A Person who participates in a regional notification center and who fails to mark or provide information regarding the location of underground utilities and facilities shall be subject to a civil penalty of not more than one thousand dollars. A subsequent violation shall be deemed to have occurred if a person fails to provide information or markings within two years of the issuance of a prior citation for the same or similar conduct.

C. A person who is required by law to participate in a regional notification center and who fails to provide information or markings to indicate hazardous material as defined in Title 30 of the Louisiana Revised Statutes of 1950 shall be subject to the following:

1. for the first violation, a civil penalty of not more than two hundred fifty dollars;
2. for a second violation, a civil penalty of not more than five hundred dollars;
3. for a third violation, a civil penalty of not more than one thousand dollars;
4. for a fourth and each subsequent violation, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars.

D. An excavator or demolisher who is unable to provide to law enforcement the locate request number assigned by the regional notification center for the specific excavation shall be considered to be in violation of R.S. 40:1749.13, shall stop all excavations immediately and shall be subject to the following:

1. for the first violation, a civil penalty of not more than two hundred fifty dollars;
2. for a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than five hundred dollars;
3. for a third violation of a similar nature within a two-year period from a previous violation, a civil penalty of not more than one thousand dollars;
4. for a fourth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars;
5. for any violation involving hazardous materials as defined in Title 30 of the Louisiana Revised Statutes of 1950, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars;
6. an excavator or demolisher who is issued a citation for a violation shall immediately stop all excavation or demolition activity until the requirements of this Part are met. Failure to do so shall subject the excavator or demolisher to an additional citation and civil penalty of not more than twenty-five thousand dollars for each such subsequent citation issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2115. Report of Adjudication

A. Proceedings and adjudication for the levying of civil penalties under this law shall be conducted by the division of administrative law in accordance with regulations adopted pursuant to the Administrative Procedure Act.

B. A local governmental subdivision, except justice of the peace courts, enforcing the provisions of this part may establish a procedure for adjudication of violations and levying of civil penalties in accordance with the provisions of this Part. Such procedure shall include:

1. the fixing of a schedule of civil penalties and costs for the various offenses within the limits of such penalties as are set by law;
2. providing that any person cited for a violation of the provisions of this Part may plead guilty or no contest before an officer designated by the local governmental subdivision;
3. that the adjudication shall conform to the requirements of the Administrative Procedure Act;
4. the final report of adjudication issued pursuant to R.S. 40:1749.23(D) shall be sent within 30 days to the Department by certified mail return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§2117. Collection and Distribution of Fines or Civil Penalties: Underground Damages Prevention Fund

A. All civil penalties shall be paid to the state treasury for credit to the Underground Damage Prevention Fund, and shall be disbursed as follows:

1. thirty-four percent shall be retained by the Underground Damages Prevention Fund;
2. upon request for disbursement by the agency, within one year of the civil penalty being deposited into the Underground Damages Prevention Fund, funds shall be disbursed as follows:
 - a. fifty percent shall be disbursed to the local law enforcement agency that issued the citation if the citation was adjudicated by the local governmental subdivision, or
 - b. fifty percent shall be disbursed to the state law enforcement agency that issued the citation if the citation was adjudicated by the state; or
 - c. twenty-five percent shall be disbursed to the local law enforcement agency that issued the citation and twenty-five percent retained in the fund if such citation was adjudicated by the state.
3. Upon request for disbursement by the local governing authority within one year of the civil penalty deposited into the Underground Damages Prevention Fund, sixteen percent shall be disbursed to the local governing authority of the area in which the violation occurred to be used solely for purposes of compliance with Louisiana Underground Utilities/Facilities Damage Prevention Law, if the local governing authority is a member of or participates in a regional notification center; otherwise, the amount shall be retained in the Underground Damages Prevention Fund.

4. If the local governing authority is not a member of nor participates in a regional notification center, but establishes and operates a violations bureau pursuant to R.S. 1749.23(D), then upon request for disbursement by the local governing authority within one year of the civil penalty deposited into the Underground Damage Prevention Fund, sixteen percent shall be disbursed to the local governing authority for each violation adjudicated by the violations bureau of that local governing authority.

B. All funds received by the Department of Public Safety and Corrections under the provisions of this Part shall be retained in the Underground Damages Prevention Fund.

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Subsection B of this Section shall be credited to a special fund hereby created in the state treasury to be known as Underground Damages Prevention Fund. After disbursements as authorized in this Section, the monies in this fund shall be used solely as provided by Subsection D of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in such fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund and interest earned on the investment of these monies shall be credited to this fund, following compliance with the requirement of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

D. The monies in the Underground Damages Prevention Fund shall be used by the Department of Public Safety and Corrections solely for enforcement of the provisions of the Louisiana Underground Utilities/Facilities Damage Prevention Law, and may include expenditure for information and programs designed to enhance awareness of duties and responsibilities of persons under the provisions of this statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

Interested persons may submit written comments to: Paul Schexnayder, Post Office Box 66614, Baton Rouge, Louisiana 70896-6614. Written comments will be accepted through November 15, 1999.

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.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Underground Utilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This new and expanded program will require the addition of two personnel in the first two years of operation. Complete administrative support will be required to start up and initiate administrative enforcement procedures. Costs to State Government would be approximately \$15,000 for equipment and \$65,000 for personnel salaries. Cost to local government units would depend on the level of enforcement and whether adjudication is handled on a state or local level. State adjudication would increase both program costs and projected revenues.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The legislation authorizing these rules provides for a graduated system of fines as follows:

- 1) \$250 for the first violation
- 2) \$500 for the second violation
- 3) \$1000 for the third violation
- 4) \$2000 to \$25,000 for a fourth violation

The amount of revenue collections is thus indeterminable due to the uncertainty of the number of violations.

The revenue collected by state or local government will depend on whether the unit adjudicates its own fines.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Costs to directly affected entities with underground utilities would include the cost of membership in a regional notification center and the cost of possible penalties for violations of these rules which cost would be off set by the anticipated reduction in damage to their respective underground utilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules will have no effect on competition. Employment may be affected by local government adjudication of proposed fines. These adjudications would require the hiring of additional personnel to schedule and hold hearings.

Nancy Van Nortwick
Undersecretary
9910#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Public Safety
Office of State Police

User Fees for Louisiana State Police Facility
(LAC 55:I.301)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 40:1375 (F) gives notice of its intent to amend LAC 55:I.301, the rule setting user fees for the State Police Training Facilities.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 3. Training and Education Section

§301. User Fees for Louisiana State Police Facility

The Louisiana State Police announces user fees effective January 20, 1999 for the Training Academy Facilities pursuant to R.S. 40:1375(F) according to the following schedules:

Large Flat Room	50 person capacity	\$75.00 per day
Large Tiered Room	50 person capacity	\$75.00 per day
Small Flat Room	40 person capacity	\$50.00 per day
Conference Room	15 person capacity	\$50.00 per day
Exercise Room	75 person capacity	\$150.00 per day
Auditorium	250 person capacity	\$250.00 per day
Gymnasium	250 person capacity	\$250.00 per day
Training Tank	50 person capacity	\$250.00 per day
Walker Firearms Range		\$250.00 per day
Firearms Range Classroom	50 person capacity	\$50.00 per day
Holden Small Classroom	25 person capacity	\$50.00 per day
Holden Large Classroom	45 person capacity	\$75.00 per day
Holden Facility Grounds		\$250.00 per day
Holden Site Usage		\$1,500.00 per day
Classroom Audio Visual Package*		\$40.00 per day
Computer Equipment		\$50.00 per day

*Audio Visual Package consists of: Overhead Projector, Slide Projector, Projection Screen, VHS Video Cassette Player, Television Monitor, Carts and Necessary Cabling

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1375(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February, 1986), amended by the Department of Public Safety and Corrections, Office of State Police, LR 25:

Interested persons may submit written comments to: Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70806. Written comments will be accepted through November 15, 1999.

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.

Nancy Van Nortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: User Fees for Louisiana State Police
Facility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule is being amended to reflect additional space that has become available for rent and to introduce an updated fee schedule that establishes a maximum fee for various services provided by the Academy. Therefore, implementation of this rule will be accomplished utilizing personnel already performing this duty with the current inventory of equipment and supplies on hand. There should be no additional costs with this action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will not be an immediate effect on revenue collections. The current fee schedule will remain intact until a time when it has been determined that the Academy's fees must be raised to keep up with other organizations providing like services. Any increase in fees will be proportional to the fees charged by other organizations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should not be any cost to individuals or non-governmental groups. The Training Academy presently provides services only to Governmental organizations. Should the Academy be open to the private sector, the cost incurred shall be determined based on the fee schedule in place for the specific services rendered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should not be any effect on competition and employment. The Academy provides classrooms, dormrooms, and audio visual equipment to governmental agencies at a fair and reasonable cost. The Academy is not in active competition with other organizations providing the same service.

Nancy Van Nortwick
Undersecretary
9910#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of the Secretary

Refund Claims (LAC 61:I.4909)

Under the authority of R.S. 47:1621, 1623, and 1625 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary, proposes to adopt LAC 61:I.4909 to provide for the manner of filing claims for refunds or credits of overpayments of tax, penalty or interest.

Revised Statute 47:1621 authorizes refunds of overpayments, R.S. 47:1623 pertains to prescription for filing claims for refunds or credits and authorizes the secretary of the Department of Revenue to prescribe the manner for filing refund claims, and R.S. 47:1625 pertains to appeals for disallowance of refund claims. This regulation is being proposed to establish the procedures to be followed to properly submit claims for refunds or credits.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4909. Refund Claims

A. Taxpayers filing claims for refunds or credits of overpayments of tax, penalty or interest as authorized by R.S. 47:1621 and in accordance with R.S. 47:1623 must comply with the following procedures.

1. A claim for refund or credit shall be written in the English language, and be:
 - a. submitted on claims for refund/credit forms provided by the secretary; or
 - b. written in a format substantially the same as that provided by the secretary; or
 - c. submitted by timely filing an amended return.
2. A claim for refund shall be signed and dated by the taxpayer or his authorized representative, and shall:
 - a. contain a clear statement detailing the reason for the claim;
 - b. indicate the appropriate tax and tax amount by tax period; and
 - c. be submitted to an appropriate office, division, or representative of the Department of Revenue. An "appropriate office, division, or representative of the Department of Revenue" means:
 - i. a Regional Service Center or Regional Audit Office;
 - ii. the appropriate division located at the department's headquarters in Baton Rouge;
 - iii. the Office of Alcohol and Tobacco Control for taxes or fees collected by that office;
 - iv. the tax collection officer assigned responsibility for the taxpayer's account for the period and tax related to the refund claim;
 - v. the field or office auditor that is examining the taxpayer's account for the period and tax related to the refund claim;

vi. the audit reviewer responsible for reviewing the audit file relating to the tax and tax period of the refund claim.

B. Claims for refund shall be approved or denied by the Secretary or his designee in accordance with written Departmental policy and procedures.

C. Claims for refunds that have not been approved within one year of the date received or that have been denied may be appealed by taxpayer to the board of tax appeals in accordance with R.S. 47:1625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1621, 1623, and 1625.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 25:

Interested persons may submit data, views, or arguments, in writing to Ellen Rhorer, Director of the Research and Technical Services Division, Department of Revenue, P.O. Box 15409, Baton Rouge, LA 70895 or by fax to (225) 925-3855. All comments must be submitted by 4:30 p.m., Monday, November 29, 1999. A public hearing will be held on Tuesday, November 30, 1999, at 10:00 a.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no 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. Implementation of this proposed rule will have no effect on the functioning of the family.
4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.
5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no 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. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Refund Claims

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed regulation, which establishes the procedures to be followed to properly submit claims for refunds or credits, will have no impact on the department's costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed regulation will have no effect on the costs of taxpayers submitting claims for refunds or credits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Brett Crawford
Secretary
9910#015

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

**Maintenance of Information on Reports and Investigations
(LAC 67:V.1105)**

The Department of Social Services, Office of Community Services, proposes a rule regarding the maintenance of information regarding reports of child abuse and/or neglect with investigation final findings of inconclusive. This proposed rule is based on Act 593 of the 1999 Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1105. Maintenance of Information on Reports and Investigations

A. The Office of Community Services will maintain information on reports of child abuse and/or neglect with final findings of inconclusive on the computer tracking and management system (TIPS) for three years after the determination of the finding. The information will be maintained for the exclusive use of child protection investigators in the course of investigations for the purpose of evaluating the existence of patterns of incidents in pending child abuse or neglect investigations. The information regarding the report and the inconclusive finding shall be confidential and will not be released to other persons or agencies outside of the Office of Community Services.

1. At the end of three years the information will be expunged unless there have been subsequent reports with final findings of inconclusive or valid. When there are subsequent investigations with findings of inconclusive, the information regarding all inconclusive findings will be maintained until there have been no subsequent inconclusive findings for three years. When there are subsequent reports with findings of valid for which a previous inconclusive report was used as part of the basis for the valid finding, the information on inconclusive findings will be maintained until the information on the valid findings is expunged.

B. The case record file of information on the reports and investigations with inconclusive findings will be maintained in the local office for the parish in which the investigation was conducted. The file will be maintained for three years from the date of the determination of the inconclusive finding. At the end of three years the case record will be destroyed in accordance with the completion of state and federal audits.

1. When there are subsequent investigations with findings of inconclusive, the case records for all inconclusive findings will be maintained until there have been no subsequent inconclusive findings for three years. When there are subsequent reports with findings of valid for which the information from the inconclusive report is used as part of the basis for the related valid report, the information on the report and investigation with the inconclusive findings will be included in the file on the valid findings.

AUTHORITY NOTE: Promulgated in accordance with Act 593 of 1999.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 25:

Interested persons may submit written comments for forty days from the date of this publication to the following address: Shirley Goodwin, Assistant Secretary, P. O. Box 3318, Baton Rouge, LA 70821.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Maintenance of Information on Reports
and Investigations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost in FY 99/2000 will be \$500 to print manual material. There will be no saving as a result of the revision to agency policy.

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 will not be any costs nor economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on revenue competition and employment.

Robert J. Hand
Director
9910#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY - SEPTEMBER 1999

LAC Title	Part.Section	Effect	Location LR 25	Month	Page	LAC Title	Part.Section	Effect	Location LR 25	Month	Page	
4	VII.1151-1159	Repealed	Aug	1474		I.1713		Amended	Feb	255		
	VII.1151-1159	Adopted	Aug	1474		IV.301		Amended	Aug	1460		
	VII.1161-1163	Amended	Aug	1474		IV.301, 701-705, 1703		Amended	Feb	256		
	VII.1165, 1167, 1169	Repealed	Aug	1474		IV.301, 503, 703, 705		Amended	Apr	654		
	VII.1171-1199	Amended	May	860		IV.301, 1301-1305		Amended	Aug	1458		
	VII.1201-1207	Amended	Aug	1474		IV.705, 805, 907		Amended	June	1091		
	VII.1215-1221,1225	Amended	May	860		IV.1901, 1903		Amended	Aug	1458		
	VII.1233, 1237	Amended	May	860		IV.2301-2313		Adopted	Aug	1460		
	VII.1307	Amended	Apr	666		V.113		Amended	Apr	654		
	VII.1317	Amended	Jan	26		V.113		Amended	June	1091		
	VII.1317	Amended	Mar	499		VI.213		Amended	June	1092		
	VII.1317	Amended	June	1093		XXV.Chapters 1-17		Amended	Apr	643		
	IX.Chapters 1-21	Amended	Sep	1623		XXVII.Chapters 1-33		Adopted	Apr	624		
	7	V.911	Amended	Feb	236		XXIX.Chapters 1-33		Adopted	May	832	
		XIII.131, 143, 222	Amended	Sep	1617		XXXI.Chapters 1-15		Adopted	July	1217	
XV.321		Amended	May	829		XXXIII.101-2133		Adopted	Aug	1436		
XXI.305-311		Amended	June	1083		33	I.Chapter 7	Adopted	Apr	657		
XXV.121, 141		Amended	Feb	235			I.1413, 1415	Amended	Mar	426		
XXV.121		Amended	May	829			I.1701	Adopted	Ap	660		
XXV.141		Amended	Sep	1620			I.Chapter 20	Adopted	May	857		
10	XV.303 and 305	Amended	July	1216		I.Chapter 23	Adopted	Mar	428			
						III.217, 219	Amended	Mar	426			
13	I.Chapter 50	Amended	Feb	242		III.501, 517, 5111	Amended	Apr	660			
	I.Chapter 60	Amended	Feb	237		III.509	Amended	Feb	259			
	I.Chapter 70	Adopted	Feb	240		III.603, 605, 607, 613	Amended	Sep	1622			
	V.Chapter 1	Adopted	Mar	414		III.615, 621	Amended	Sep	1622			
16	II.501	Adopted	Jan	100		III.1105	Amended	Apr	656			
						III.2103	Amended	Apr	657			
						III.2103, 2113	Amended	May	852			
						III.2117	Amended	Feb	258			
						III.2123	Amended	July	1240			
						III.2153	Amended	May	850			
						III.3003	Amended	July	1239			
						III.5112	Amended	July	1237			
						III.5116, 5122, 5311	Amended	Aug	1463			
						III.5901	Amended	Mar	425			
19	II.107	Amended	June	1083		V.Chapters 1, 3, 5, 11, 15	Amended	Mar	430			
	VII.Chapter 73	Adopted	Mar	412		V.Chapters 1, 3, 5, 11, 15	Amended	May	852			
22	I.203	Adopted	Mar	522		V.Chapters 17, 22	Amended	May	430			
	I.339	Adopted	July	1260		V.109, 2214, 2218, 3523	Repromulgated	May	853			
	I.359	Amended	May	875		V.515	Amended	Apr	660			
	III.Chapter 47	Amended	Apr	662		V.517, 519, 1109, 3001, 4301	Amended	Aug	1465			
	XIII.503	Amended	Jan	26		V.528	Adopted	Mar	430			
25	Chapter 5	Adopted	Feb	236		V.Chapters 17, 22, 31	Amended	May	852			
						V.Chapters 31, 33, 35, 37, 40	Amended	Mar	430			
						V.3309	Repromulgated	Jan	25			
						V.Chapters 33, 35, 37, 40, 41	Amended	May	853			
						V.Chapters 41, 43, and 49	Amended	Mar	430			
						V.Chapters 43 and 49	Amended	Apr	853			
						V.5129, 5131	Amended	Mar	426			
						VII.517, 520	Adopted	Apr	660			
						VII.529	Amended	Mar	426			
						IX.1309	Amended	Mar	426			
						IX.2331, 2387, 2407	Amended	Apr	660			
						IX.2715, 2721, and 2735	Amended	June	1092			
28	I.105	Amended	Feb	255		IX.2765, 2769	Amended	Apr	660			
	I.105	Amended	Mar	418		IX.2301, 2531, 2533	Amended	Aug	1466			
	I.901	Amended	Feb	249		XI.307	Amended	Mar	426			
	I.901	Amended	Mar	419		XV.2510, 2511	Amended	Mar	426			
	I.901	Amended	May	831								
	I.901	Amended	June	1084								
	I.901	Amended	Mar	422								
	I.901	Amended	Aug	1433								
	I.901	Amended	Aug	1433								
	I.903	Amended	Mar	424								
	I.903	Amended	Mar	424								
	I.903	Amended	June	1090								
	I.904	Amended	Feb	249								
	I.906	Amended	Feb	251								
	I.917	Amended	Feb	251								
	I.922	Amended	Sep	1621								
	I.1523	Amended	Mar	424								
	I.1709	Amended	Feb	247								
I.1712	Adopted	Feb	247									

LAC Title	Part.Section	Effect	Location LR 25	Month Page	LAC Title	Part.Section	Effect	Location LR 25	Month Page	
35	I. Chapter 10	Adopted	May	831	LXXVII.10501-10507		Adopted	Aug	1425	
	XIII.1115	Amended	Jan	25		LXIX.Chapter 1	Amended	June	1094	
	XIII.Chapter 5	Adopted	July	1255		LXXX.101, 105, 301	Amended	July	1240	
	XIII.Chapter 5	Repealed	July	1255		LXXX.701, 703	Amended	July	1240	
37	XIII.Chapter 5	Repealed	June	1100	LXXX.707, 711	Amended	July	1240		
	XIII.Chapter 5	Adopted	June	1100	LXXX.901, 905, 1101	Amended	July	1240		
	XIII.Chapter 5	Repromulgated	Aug	1481	LXXX.1103, 1105	Amended	July	1240		
	XIII.Chapter 49	Adopted	Apr	706	LXXX.1303, 1505	Amended	July	1240		
	XIII.Chapter 51	Adopted	Jan	78	LXXX.1509, 1511, 1701	Amended	July	1240		
	XIII.Chapter 87	Adopted	July	1255	LXXXV.701	Amended	May	872		
40	I.2011-2173	Repealed	Feb	264	LXXXV.704	Amended	Mar	519		
	I.5501-6661	Adopted	Feb	264	LXXXV.705	Amended	Sep	1627		
	XVI.101-111	Adopted	June	1142	LXXXV.705 and 1053	Amended	July	1249		
42	III.104	Amended	Jan	79	LXXXV.710	Amended	Mar	519		
	IX.2105, 2701, 2703, 2707	Amended	Jan	79	LXXXV.1015	Amended	Sep	1628		
	IX.2723, 2729, 2901-2917	Amended	Jan	79	48	I.813	Repealed	Apr	708	
	IX.2921, 3301-3309, 3319	Amended	Jan	79		I.2349	Amended	Sep	1651	
	XI.2407, 2413	Amended	Jan	85		I.12501	Amended	July	1250	
43	I.Chapters 37 and 39	Adopted	Feb	308	I.Chapter 18	Amended	Apr	708		
	XIX.109	Amended	July	1260	I.Chapter 27	Amended	Apr	666		
	XIX.109	Adopted	Aug	1522	I.7601-7615	Amended	Aug	1478		
	XXIX.Chapter 1	Adopted	Mar	500	IX.1301-1311	Adopted	July	1259		
46	I.1117	Amended	July	1211	49	XIII.Chapter 49	Adopted	Apr	706	
	I.1119	Adopted	July	1211		50	II.Chapter 41	Adopted	Sep	1630
	I.1701	Amended	July	1212			II.Chapter 103	Amended	Apr	675
	V.2905, 3101, 3303	Amended	Feb	245	II.10905, 10907		Amended	June	1100	
	V.2909	Repealed	Feb	245	52	I.1301, 1311, 1604	Amended	Jan	24	
	V.4701, 4703, 4705, 4707	Adopted	Feb	245		I.1801-1805	Adopted	Jan	24	
	V.4709, 4711, 4713, 4715	Adopted	Feb	245		I.1901-1905	Adopted	Apr	624	
	XIII.10521	Amended	May	830	55	I.201-209	Adopted	May	876	
	XXI.1301	Adopted	July	1215		V.Chapter 25	Adopted	Jan	85	
	XXXIII.114	Amended	Mar	514		VII.319	Amended	Feb	311	
	XXXIII.124	Adopted	Mar	511	VII.505	Amended	May	878		
	XXXIII.301	Amended	Mar	509	IX.105, 107, 181	Amended	July	1262		
	XXXIII.301, 502	Amended	Aug	1476	58	I.301, 303, 501, 503	Amended	July	1278	
	XXXIII.306	Amended	Mar	513		III.503	Amended	Sep	1655	
	XXXIII.314	Amended	Mar	513		61	I.101	Adopted	Aug	1523
	XXXIII.316	Amended	Mar	512	I.201		Adopted	Mar	526	
	XXXIII.320	Adopted	Mar	512	I.1901		Adopted	May	877	
	XXXIII.415, 419	Amended	Aug	1477	V.303, 703, 907, 1103, 1305		Amended	Feb	312	
	XXXIII.421	Amended	Mar	509	V.1307, 1503		Amended	Feb	312	
	XXXIII.504	Amended	Mar	510	V.2301, 2303, 2503		Amended	Feb	312	
	XXXIII.710, 907, 923, 929	Amended	Aug	1476	V.2503, 2703-2707		Amended	Feb	312	
	XXXIII.1210, 1305	Amended	Aug	1476	V.3101-3105		Amended	Feb	312	
	XXXIII.1401, 1403	Amended	Aug	1576	V.3501 and 3503		Amended	Feb	312	
	XXXIII.1611 and 1613	Amended	Mar	510	67		I.101-121	Adopted	June	1145
	XXXIII.1611 and 1613	Amended	Mar	513		II.1149	Amended	Apr	709	
	XXXIII.1611 and 1613	Amended	Mar	510		III.1928, 1932, 1933	Adopted	Apr	710	
	XLI.313	Amended	May	830		III.1931	Amended	Apr	710	
	XLI.705	Amended	May	829		III.1994	Repealed	Apr	710	
	XLV.1501-1519	Amended	Jan	27		III.2514	Amended	Feb	320	
	XLV.4501-4515	Amended	Jan	27		III.2756	Adopted	May	879	
	XLV.6507 and 6513	Amended	July	1248		III.2913	Amended	Mar	526	
	XLVII.4513	Amended	July	1245		V.1301	Amended	Sep	1654	
	XLVII.Chapter 33	Amended	Mar	514		V.3503	Amended	June	1144	
	XLIX.1103	Amended	Sep	1627	VII.101-103, 107-119	Amended	July	1263		
	LX.1301	Amended	Feb	259	VII.105, 121	Repromulgated	July	1263		
	LX.1303-1325	Adopted	Feb	259	VII.110	Adopted	July	1263		
	LXI.1701	Amended	Aug	1525	VII.Chapter 5	Adopted	Mar	527		
	LXIII.805	Amended	June	1098						
	LXVII.10101, 10301-10317	Adopted	Aug	1425						
	LXVII.10401-10425	Adopted	Aug	1425						

LAC Title	Part.Section	Effect	Location LR 25		LAC Title	Part.Section	Effect	Location LR 25	
			Month	Page				Month	Page
70	I.105, 107	Amended	July	1277		III.311-314, 327	Repealed	July	1278
	I.136	Adopted	May	879		III.321	Repealed	Sep	1657
	I.515	Amended	Sep	1654		III.331	Adopted	Sep	1657
	III.Chapter 23	Adopted	Jan	96		V.111	Amended	Sep	1655
	XVII.Chapter 5	Adopted	May	881		VII.169	Amended	Jan	102
	XXI.101-121	Adopted	May	536		VII.187	Adopted	Jan	101
	IX.Chapter 13	Adopted	Jan	95		VII.355	Adopted	Mar	542
76	I.301, 303	Amended	Feb	321		VII.357	Adopted	Mar	543
	I.111	Adopted	July	1278		XIX.101, 103	Amended	July	1289
	I.515	Amended	Sep	1654		XIX.101, 103	Repromulgated	Aug	1526
						XIX.111	Adopted	July	1278

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Department of Environmental Quality Office of Environmental Assessment

Semiannual Regulatory Agenda

The Department of Environmental Quality announces the availability of the October 15, 1999, edition of the *Semiannual Regulatory Agenda* prepared by the Environmental Planning Division, Regulation Development Section. The current agenda contains information on rules that have been proposed but have not been published as final and rules that are scheduled to be proposed in 1999 and 2000. The agenda is available on the Department's web site at <http://www.deq.state.la.us/planning/regs/index.htm>.

Copies of the agenda may be purchased by contacting the Department of Environmental Quality, Office of Environmental Assessment, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or by calling (225) 765-0399. Check or money order is required in advance for each copy.

James H. Brent, Ph.D.
Assistant Secretary

9910#021

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, December 11, 1999 at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

9910#020

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 No.	Serial No.
J. D. Baker	Caddo Pine Island	Comegy	001	210865
J. D. Baker	Caddo Pine Island	Comegy	002	211800
J. D. Baker	Caddo Pine Island	Comegy	003	212144
J. D. Baker	Caddo Pine Island	Comegy SWD	001	972179
Mrs D Boudreaux	Charenton	Mrs D Boudreaux	012	990427
Caddo Management, Inc.	South Arnaudville	MARG 1 RA SUA; Fredrick et al.	001	176938
E. Cockrell, Jr.	Amelia	Williams Inc	001	099613
Double "OO" Oilfield Svcs.	Esperance Point	J P Morgan SWD	005	044507
Double "OO" Oilfield Svcs.	Carr Lake	F D Brown	001	100051
Double "OO" Oilfield Svcs.	Esperance Point	Hugh Junkin	009	050846
Double "OO" Oilfield Svcs.	Esperance Point	J P Morgan	018	057719
Double "OO" Oilfield Svcs.	Esperance Point	J P Morgan	021	059335
Double "OO" Oilfield Svcs.	Carr Lake	F D Brown	002	206589
Double "OO" Oilfield Svcs.	Tew Lake	Wiley	003	116345
Elizabeth Oil Company	North Carterville	J F Oglee	001	028096
M.J.B. Production Co.	South Rifle Point	ART SU J; Learned Peabody	002	097901
Mongrue Oil Co.	Bayou Des Allemands	4100 RA SUA; Simoneaux	001	043236
Mongrue Oil Co.	Bayou Des Allemands	S J Simoneaux	002	044983
Mongrue Oil Co.	Bayou Des Allemands	S J Simoneaux	004	045469
Mongrue Oil Co., Inc.	Bayou Des Allemands	Humble Oil & Refining Co	001	123285
Mongrue Oil Co., Inc.	Bayou Des Allemands	Humble Oil & Refining Co	1-D	124125
Pacific Oil & Gas	Caddo Pine Island	Glassell B	005	137818
Pacific Oil & Gas	Caddo Pine Island	Glassell B	006	137819
Pacific Oil & Gas	Caddo Pine Island	Glassell B	007	137820
Pacific Oil & Gas	Caddo Pine Island	Glassell B	008	137821
Pacific Oil & Gas	Caddo Pine Island	Glassell B	001	138288
Pacific Oil & Gas	Caddo Pine Island	Glassell B	002	138289
Pacific Oil & Gas	Caddo Pine Island	Glassell B	003	138290
Pacific Oil & Gas	Caddo Pine Island	Glassell B	004	138291

Pacific Oil & Gas	Caddo Pine Island	Glassell B	009	139068
Pacific Oil & Gas	Caddo Pine Island	Glassell B	011	139070
Pacific Oil & Gas	Caddo Pine Island	Glassell B	012	139071
Pacific Oil & Gas	Caddo Pine Island	Glassell B	013	139394
Pacific Oil & Gas	Caddo Pine Island	Glassell B	014	139395
Pacific Oil & Gas	Caddo Pine Island	Glassell B	015	139396
Pacific Oil & Gas	Caddo Pine Island	Glassell B	016	139397
Pacific Oil & Gas	Caddo Pine Island	Glassell B	017	140811
Pacific Oil & Gas	Caddo Pine Island	Glassell B	018	140812
Pacific Oil & Gas	Caddo Pine Island	Glassell B	019	140813
Pacific Oil & Gas	Caddo Pine Island	Glassell B	020	140814
Pacific Oil & Gas	Caddo Pine Island	Glassell A	001	214421
Pacific Oil & Gas	Caddo Pine Island	Glassell A	002	214422
Pacific Oil & Gas	Caddo Pine Island	Glassell A	003	214423
Pacific Oil & Gas	Caddo Pine Island	Glassell A	004	214424
Pacific Oil & Gas	Caddo Pine Island	Glassell B	021	167824
Pacific Oil & Gas	Caddo Pine Island	Glassell F	002	057279
Pacific Oil & Gas	Caddo Pine Island	Glassell F	001	061730
Pacific Oil & Gas	Caddo Pine Island	Glassell F	003	089455
Pacific Oil & Gas	Caddo Pine Island	Glassell F	005	089456
Pacific Oil & Gas	Caddo Pine Island	Glassell F	007	092332
Pacific Oil & Gas	Caddo Pine Island	Glassell F	004	092489
Pacific Oil & Gas	Caddo Pine Island	Glassell F	006	095687
Pelican Dome Exploration, Inc.	Lyles	U WX RA SUB; W S Kingrey	001	164583
Petrosun E&P, Inc.	Lake End	John Mondello	004	067308
Petrosun E&P, Inc.	Lake End	John Mondello	005	067661
Petrosun E&P, Inc.	Lake End	John Mondello	002	068399
Petrosun E&P, Inc.	Lake End	John Mondello	003	068428
Petrosun E&P, Inc.	Lake End	William Prince	015	069870
Petrosun E&P, Inc.	Lake End	John Mondello	001	071533
Petrosun E&P, Inc.	Lake End	John Mondello SWD	006	071871
Petrosun E&P, Inc.	Lake End	William Prince	019	154841
Petrosun E&P, Inc.	Lake End	William Prince	002	154842
Petrosun E&P, Inc.	Lake End	William Prince	003	154843
Petrosun E&P, Inc.	Lake End	William Prince	004	154844
Petrosun E&P, Inc.	Lake End	William Prince	005	154845

Petrosun E&P, Inc.	Lake End	William Prince	006	154846
Petrosun E&P, Inc.	Lake End	William Prince	007	154847
Petrosun E&P, Inc.	Lake End	William Prince	008	154848
Petrosun E&P, Inc.	Lake End	William Prince	009	154849
Petrosun E&P, Inc.	Lake End	William Prince	010	154850
Petrosun E&P, Inc.	Lake End	William Prince	011	154851
Petrosun E&P, Inc.	Lake End	William Prince	012	154852
Petrosun E&P, Inc.	Lake End	William Prince	013	154983
Petrosun E&P, Inc.	Lake End	William Prince	014	154984
Petrosun E&P, Inc.	Lake End	William Prince	018	173929
Petrosun E&P, Inc.	Lake End	William Prince	016	182332
Petrosun E&P, Inc.	Lake End	William Prince	017	182333
Petrosun E&P, Inc.	Lake End	John Mondello	008	204327
Petrosun E&P, Inc.	Lake End	John Mondello	007	205725
Power Reserves, Inc.	Erath	E BROU SU; R Y Rose	001	073201
Superior Operating Company	Fields	Boise Southern	003	172987
Superior Operating Company	Bancroft	Boise Southern	002	161307
Superior Operating Company	South Bancroft	VUA; Columbia Land & Timber	001	202062
Superior Operating Company	East Neale	3800 RA SUA; Crane	001	197248
Superior Operating Company	Bear Head Creek	Boise Southern SWD	001	153095
Superior Operating Company	Bear Head Creek	W H Williams	001	157780
Superior Operating Company	Bear Head Creek	VUA; Boise Southern	001	159261
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9910#042

Philip N. Asprodites
Commissioner

POTPOURRI

**Department of Transportation and Development
Office of the Secretary**

Sabine River Compact Administration

The fall meeting of the Sabine River Compact Administration will be held at the Sabine River Authority of Texas Administrative Office, Orange, Texas, October 15, 1999, at 10:30 a.m. The purpose of the meeting will be to

conduct business as programmed in Article IV of the By Laws of the Sabine River Compact Administration.

The spring meeting will be held at a site in Louisiana to be designated at the above described meeting. Contact person concerning this meeting is:

Mary H. Gibson, Secretary
Sabine River Compact Administration
15091 Texas Highway
Many, Louisiana 71449
(318) 256-4112

Mary H. Gibson
Secretary

9910#007

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