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# Executive Orders

## EXECUTIVE ORDER MJF 00-31

Tobacco Settlement Payment Options Task Force

WHEREAS, Executive Order No. MJF 2000-2, signed on January 28, 2000, established the Tobacco Settlement Payment Options Task Force (hereafter "Task Force") to compare the value of an immediate lump sum payment of the state of Louisiana=s portion of $246 billion obtained from the settlement of *Richard P. Ieyoub v. Philip Morris, Inc.,* No. 98-6473, Fourteenth Judicial District Court, parish of Calcasieu, and other cases, to the value of annual payments if received as scheduled in the amounts anticipated; analyze the risks involved in the tobacco settlement payment plan; and explore other tobacco settlement payment options that may be in the best interest of the citizens of the state of Louisiana; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2000-2 in order to extend the reporting period for the Task Force and establish a deadline for its next meeting;

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

SECTION 1: Subsection 2(D) of Executive Order No. MJF 2000-2, signed on January 28, 2000, is amended to provide as follows:

> Submitting to the governor, speaker of the House of Representatives, and the president of the Senate, an updated comprehensive written report on the issues set forth in subsections 2(A), (B), and (C) of this Order by December 31, 2000.

SECTION 2: Section 5 of Executive Order No. MJF 2000-2 is amended to provide as follows:

> The Task Force shall hold its next meeting on or before November 17, 2000. Thereafter, it shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 4: All other sections, subsections, and/or paragraphs of Executive Order No. MJF 2000-2 shall remain in full force and effect.

SECTION 5: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of September, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0010#011

## EXECUTIVE ORDER MJF 00-32

Electronic Transactions, Records and Signatures
In or Affecting Interstate or Foreign Commerce

WHEREAS, the One Hundred Sixth Congress enacted the Electronic Signatures in Global and National Commerce Act (hereafter "E-Sign"), signed into law on June 30, 2000, to facilitate the use of electronic records and signatures in interstate and/or foreign commerce;

WHEREAS, E-Sign impacts on existing state laws, rules, and regulations by declaring in Section 101(a) that, "notwithstanding any laws to the contrary," "with respect to any transaction in or affecting interstate or foreign commerce," "a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form," and "a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation";

WHEREAS, the apparent intent of E-Sign is to eliminate barriers to the use of electronic signatures and records in interstate and/or foreign commercial transactions, and to preempt any state law, rule, and/or regulation affecting and/or related to commercial, consumer, and/or financial transactions in interstate or foreign commerce that is inconsistent with E-Sign=s provisions;

WHEREAS, although E-Sign does not require "any person [including governmental agencies] to agree to use or accept electronic records or electronic signatures, other than a governmental agency with respect to a record other than a contract to which it is a party," when portions of E-Sign become effective October 1, 2000, it may preempt laws, rules, and/or regulations in Louisiana related to commercial, consumer, or financial transactions in or affecting interstate or foreign commerce that are inconsistent with its provisions; and

WHEREAS, as E-Sign recognizes certain exemptions from preemption, including an exemption for state laws, rules, and/or regulations which specify alternative procedures and/or requirements for the use and/or acceptance of electronic records and/or signatures to establish the legal effect, validity, or enforceability of contracts or other records that are consistent with E-Sign and "do not require or accord greater legal status or effect to the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures," the best interests of the state of Louisiana will be served by the commissioner of administration taking an active leadership role in the state of Louisiana=s adaptation to E-Sign, including the evaluation of the state=s laws, rules, and/or regulations for potential preemption and, if necessary, promulgating emergency temporary rules which are exempt from preemption by E-Sign that may be utilized in response to E-Sign by the various departments, commissions, boards,

agencies, and offices of the executive branch of the state of Louisiana;

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

SECTION 1: Due to the potential complex and severe effects that may result from the Electronic Signatures in Global and National Commerce Act (hereafter "Act"), portions of which become effective October 1, 2000, the commissioner of administration is authorized and directed to take all action necessary to minimize the adverse effects of, and accommodate the executive branch of the state of Louisiana=s adaption to, the Act. Accordingly, the duties of the commissioner of administration shall include, but are not limited to, the following:

1. Analyzing the state of Louisiana=s laws, rules, and/or regulations related to and/or affecting electronic signatures and electronic records and assessing their potential preemption by the Act;

2. If deemed necessary due to the provisions of the Act, adopting and promulgating emergency temporary rules that are consistent with the requirements of, and would not be preempted by, E-Sign that may be used by any of the departments, commissions, boards, agencies, and offices in the executive branch of the state of Louisiana (hereafter "departments") to prevent a void in or absence of regulations, rules, and/or procedures for those departments effected by E-Sign and/or to ensure the accuracy and integrity of electronic signatures and/or records received and/or obtained by departments effected by E-Sign;

3. Analyzing the policies and practices of the departments regarding record retention standards and recommending uniform changes for the improvement of the accuracy, integrity, and/or accessibility of electronic signatures and/or records; and

4. Analyzing the Uniform Electronic Transactions Act as approved and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws in 1999, and whether it is in the best interests of the state of Louisiana to enact the model law.

SECTION 2: A. All departments are authorized and directed to cooperate with the commissioner of administration in the implementation of the provisions of this Order.

1. All departments shall promptly comply with any request by the commissioner of administration for information, documentation, and/or assistance that is related to the provisions of this Order.

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of September, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0010#012

## EXECUTIVE ORDER MJF 00-33

Statewide Intermodal Transportation and
Economic Development Policy Commission

WHEREAS, following the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240 (hereafter "ISTEA"), which mandated that each state prepare a long-range statewide intermodal transportation plan, the Department of Transportation and Development in cooperation with the Department of Economic Development and public and private groups throughout the state of Louisiana, developed a twenty-five (25) year statewide intermodal transportation plan which the state of Louisiana adopted as its Statewide Intermodal Transportation Plan (hereafter "Transportation Plan") on March 22, 1996;

WHEREAS, Executive Order No. MJF 96-77 (hereafter "MJF 96-77"), issued on December 23, 1996, established the Statewide Intermodal Transportation Steering Committee (hereafter "Steering Committee") to provide guidance support, and executive leadership for the implementation of the Transportation Plan;

WHEREAS, in 1998, Congress enacted the Transportation Equity Act for the Twenty-First Century, Pub. L. No. 105-178 (hereafter "TEA-21"), which finds that "it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, . . .", 23 U.S.C.A. §135(a)(1), and directs each state to include within the scope of its intermodal transportation planning process "consideration of projects and strategies that will support the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency," 23 U.S.C.A. §135(c)(1)(A);

WHEREAS, in 1999, *Louisiana: Vision 2020,* which contains the state of Louisiana=s goals and objectives for the improvement and sustenance of the infrastructure of the state of Louisiana=s highways, waterways, ports, and railways, was adopted as the state of Louisiana=s Master Plan for Economic Development; and

WHEREAS, as the state of Louisiana will begin revising the Transportation Plan during Fiscal Year 2000-2001 in accordance with the requirements of TEA-21, the interests of the citizens of the state of Louisiana will be best served by replacing the Steering Committee with a commission charged with the duty of assisting the secretary of the Department of Transportation and Development in identifying and ranking the state of Louisiana=s priority transportation-related economic development projects and/or services in order to achieve the state of Louisiana=s goals and objectives for economic development set forth in *Louisiana: Vision 2020*;

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

SECTION 1: The Statewide Intermodal Transportation and Economic Development Policy Commission (hereafter "Commission") is established within the executive branch, Department of Transportation and Development.

SECTION 2: The duties of the Commission shall include, but are not limited to, the following:

A. Advising the secretary of the Department of Transportation and Development regarding policy considerations, goals, and/or objectives relevant to the development, maintenance, implementation, and/or revision of the state of Louisiana=s Statewide Intermodal Transportation Plan which achieve and/or fulfill the goals and objectives set forth in the state of Louisiana=s Master Plan for Economic Development (hereafter "*Louisiana: Vision 2020*");

B. Evaluating and ranking the priority of Department of Transportation and Development transportation-related economic development projects and/or services to best achieve the goals and objectives of *Louisiana: Vision 2020* and/or of any other transportation-related economic development projects and/or services which involve state funding;

C. Consulting and/or advising the Louisiana Legislature, the Louisiana Economic Development Council, local governments, public and private agencies, companies, groups, and/or the public regarding transportation issues on policy, regulations, programs, projects, and/or funding; and

D. Identifying and evaluating transportation modes that may strengthen the state of Louisiana=s existing economy and foster additional economic growth throughout the state of Louisiana.

SECTION 3: The Commission shall submit to the governor and secretary of the Department of Transportation and Development comprehensive periodic reports which address the issues set forth in Section 2 of this Order.

SECTION 4: The Commission shall be composed of the following thirteen (13) members who, unless specified, shall be appointed by and serve at the pleasure of the governor:

A. The governor, or the governor=s designee;

B. An assistant chief of staff, Office of the Governor;

C. The secretary of the Department of Transportation and Development;

D. The commissioner of the Division of Administration, or the commissioner=s designee;

E. The secretary of the Department of Economic Development;

F. The president of the Louisiana Senate, or the president=s designee;

G. The speaker of the Louisiana House of Representatives, or the speaker=s designee;

H. The chair of the Senate Committee on Transportation, Highways, and Public Works;

I. The chair of the House of Representatives Committee on Transportation, Highways, and Public Works;

J. The chair of the Senate Committee on Commerce;

K. The chair of the House of Representatives Committee on Commerce; and

L. Two (2) representatives of Louisiana businesses.

SECTION 5: The secretary of the Department of Transportation and Development shall serve as the chair of the Commission. All other officers, if any, shall be elected from the membership of the Commission.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: Commission members shall not receive additional compensation or a per diem from the Office of the Governor and/or the Department of Transportation and Development for serving on the Commission. State officers and/or employees may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency, and/or office.

SECTION 8: Support staff for the Commission and facilities for its meetings shall be provided by the Department of Transportation and Development.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 10: Executive Order No. MJF 96-77, signed on December 23, 1996, is hereby terminated and rescinded.

SECTION 11: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of October, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0010#024

**EXECUTIVE ORDER MJF 00-34**

Bond AllocationCLouisiana Local Government Environmental Facilities and Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana

Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

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

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

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2000 Ceiling to be used in connection with a program to provide financing for acquiring and equipping an asphalt manufacturing plant located in the parish of St. Charles, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2000 as follows:

| Amount Of Allocation | Name Of Issuer | Name Of Project |
|---|---|---|
| $2,500,000 | Louisiana Local Government Environmental Facilities and Community Development Authority | Barriere Construction Company, L.L.C. |

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 2000.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of October, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0010#025

## EXECUTIVE ORDER MJF 00-35

Continuation of Hiring Freeze

WHEREAS, pursuant to Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, Act No. 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, Act No. 2 of the 2000 Second Extraordinary Session of the Louisiana Legislature, and/or R.S. 42:375, the governor may issue executive orders which prohibit the filling of any new or existing employment vacancies in the executive branch of state government (hereafter "hiring freeze"); and

WHEREAS, to ensure that the state of Louisiana will not suffer a budget deficit due to 2000-2001 appropriations exceeding actual revenues, prudent money management practices dictate that the best interests of the citizens of the state of Louisiana will be served by continuing throughout the executive branch of state government, until November 1, 2000, the hiring freeze that was ordered through June 30, 2000, by Executive Order No. MJF 2000-18, issued May 4, 2000, and continued until September 30, 2000, by Executive Order No. MJF 2000-21, issued June 30, 2000, and to expressly include within the hiring freeze all programs, departments, boards, commissions, agencies, ancillary agencies, and/or offices in the executive branch of state government funded by Act No. 2 of the 2000 Second Extraordinary Session of the Louisiana Legislature;

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

SECTION 1: Unless specifically exempted by Section 2 of this Order, no vacancy in an existing or new position of employment within the executive branch of state government in a budget unit and/or activity funded by Act No. 2 of the 2000 Second Extraordinary Session of the Louisiana Legislature (hereafter "Act No. 2") and/or Act No. 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (hereafter "Act No. 11"), which existed on or occurred after May 4, 2000, the date of issuance of Executive Order No. MJF 2000-18, shall be filled without the express written approval of the commissioner of administration (hereafter "hiring freeze").

SECTION 2: All budget activities funded by Act No. 11 which were exempt from the hiring freeze ordered in Executive Order No. MJF 2000-18 continue to be exempt

from the provisions of this Order. None of the budget activities funded by Act No. 2 are exempt from the provisions of this Order.

SECTION 3: Each department, agency, office, board, or commission shall file with the commissioner of administration, on the tenth day of each month, a monthly report reflecting projected savings that the department, agency, office, board or commission will generate through the implementation of this Order. Such reports shall reflect a full accounting of personnel changes within the department, agency, office, board or commission for the reporting period covered, including an accounting of employment figures at the beginning and end of the reporting period and the number of vacancies filled and/or not filled during the reporting period, pursuant to the provisions of this Order. The reports shall include a categorized summary of transactions which resulted pursuant to the exemption granted in Section 2 of this Order and/or permitted pursuant to Subsection 4 of this Order.

SECTION 4: The provisions of Section 4 of Executive Order No. MJF 2000-18 are continued in effect.

SECTION 5: This Order is effective upon signature and shall remain in effect through November 1, 2000, or until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of October, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0010#026

# Emergency Rules

## DECLARATION OF EMERGENCY

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

Student Tuition and Revenue Trust (START Saving) Program (LAC 28:VI.107, 307 and 311)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2) to implement the provisions of Act 45 of the 2000 Regular Session of the Legislature.

The Emergency Rules are necessary to make the program more attractive, simplify refund and to allow the Louisiana Office of Student Financial Assistance and 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 7, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28**
**EDUCATION**
**Part VI. Student Financial AssistanceCHigher Education Savings**
**Chapter 1. General Provisions**
**Subchapter A. Student Tuition Trust Authority**
**§107. Applicable Definitions**

* * *

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

* * *

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

* * *

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:

**Chapter 3. Education Savings Account**
**§307. Allocation of Tuition Assistance Grants**

A. - C.2. ...

D. Tuition Assistance Grant Rates

1. The Tuition Assistance Grant rates applicable to an Education Assistance Account are determined by the federal adjusted gross income of the Account Owner, according to the following schedule:

| Reported Federal Adjusted Gross Income | Tuition Assistance Grant Rate* |
|---|---|
| 0 to $14,999 | 14 percent |
| $15,000 to $29,999 | 12 percent |
| $30,000 to $44,999 | 10 percent |
| $45,000 to $59,999 | 8 percent |
| $60,000 to $74,999 | 6 percent |
| $75,000 to $99,999 | 4 percent |
| $100,000 and above | 0 percent |

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

2. Effective January 1, 2001, the Tuition Assistance Grant rates applicable to an Education Assistance Account are determined by the federally adjusted gross income of the Account Owner, according to the following schedule:

| Reported Federal Adjusted Gross Income | Tuition Assistance Grant Rate* |
|---|---|
| 0 to $29,999 | 14 percent |
| $30,000 to $44,999 | 12 percent |
| $45,000 to $59,999 | 9 percent |
| $60,000 to $74,999 | 6 percent |
| $75,000 to $99,999 | 4 percent |
| $100,000 and above | 2 percent |

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

E. Restrictions on Allocation of Tuition Assistance Grants to Education Assistance Accounts. The allocation of Tuition Assistance Grants is limited to Education Assistance Accounts which:

1. have principal deposits totaling at least $100 annually; and

2. have an Account Owner's reported federal adjusted gross income of less than $100,000 (effective January 1, 2001, this restriction shall terminate); and

E.3. - H.4. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:

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

A. - H. ...

I. Refund Payments

1. Payment of refunds for voluntary termination of accounts without penalty pursuant to §311.F shall be made

by or about the tenth day following the date on which the account was terminated. The refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned during the calendar year of termination will be refunded on or about the forty-fifth day after the start of the next calendar year.

2. Payment of refunds for voluntary termination of accounts with penalty pursuant to §311.G shall be made by or about the tenth day following the date on which the account was terminated. The refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year less the interest penalty. Interest earned during the calendar year of termination, less the interest penalty, will be refunded on or about the forty-fifth day after the start of the next calendar year

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), LR 26:

Mark S. Riley
Assistant Executive Director

0010#007

## DECLARATION OF EMERGENCY

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

Tuition Opportunity Program for Students (TOPS)CHigher Education Scholarship and Grant Programs (LAC 28:IV.301, 509, 703, 803, 2103)

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 7, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28**
**EDUCATION**
**Part IV. Student Financial AssistanceCHigher Education Scholarship and Grant Programs**

**Chapter 3. Definitions**

**§301. Definitions**

* * *

*Legal Guardian*Can adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor.

* * *

*Orphan*Ca person who does not live with either parent because the parent(s) is/are dead or has/have abandoned him or the parental rights of the parent(s) has/have been severed by competent authority.

* * *

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 LR 24:631 (April 1998), amended LR 24:1897 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:

**Chapter 5. Application; Application Deadlines and Proof of Compliance**

**§509. American College Test (ACT) Testing Deadline**

A. …

B. The student may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before the official April test date in the Academic Year (High School) in which the student graduates. In order to substitute a SAT score, the student must direct the College Board to send the score to LOSFA so that the score is electronically reported to LOSFA by the College Board within 45 days of the final test date allowed by Section 509. SAT scores received in any other manner shall not be considered.

C. - E. ...

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 26:1995 (September 2000), amended LR 26:

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

**§703. Establishing Eligibility**

A. - A.5.a.i. …

ii. for purposes of satisfying the requirements of §703.A.5.a.i., above, or §803.A.6.a., the following courses shall be considered equivalent to the identified core courses

and may be substituted to satisfy corresponding core courses:

| Core Curriculum Course | Equivalent (Substitute) Course |
|---|---|
| Physical Science | General Science |
| Algebra I | Algebra I, Parts 1 and 2 |
| Applied Algebra IA and IB | Applied Mathematics I and II |
| Algebra I, Algebra II and Geometry | Integrated Mathematics I, II and III |
| Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics | Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III* |
| Chemistry | Chemistry Com |
| Fine Arts Survey | Speech Debate (2 units) |
| Western Civilization | European History |

*Applied Mathematics III was formerly referred to as Applied Geometry

A.5.b - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:689 (April 2000), LR 26:1996 (September 2000), LR 26:

**Chapter 8. TOPS-TECH Award**

**§803. Establishing Eligibility**

A. - A.6.c. …

d. Any courses that may be substituted for TOPS core curriculum course requirements in §703.A.5.a.i. may be substituted for the comparable TOPS-TECH core curriculum course requirements.

e. 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.

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 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:1997 (September 2000), LR 26:

**Chapter 21. Miscellaneous Provisions and Exceptions**

**§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements**

A. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS because of failure to meet the initial or continuous enrollment requirements may request reinstatement in TOPS based on one or more of the following exceptions:

1. - 10.c. ...

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitate full or partial withdrawal from, or non-enrollment in an eligible postsecondary institution. The following situations are not exceptional circumstances:

(a) - (h) ...

(i) For students graduating from high school in 2001 and thereafter, making financial commitments or accepting an academic or athletic scholarship or grant to attend a postsecondary institution outside of Louisiana.

E.11.a.ii. - E.11.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 24:647 (April 1998), amended LR 24:1919 (October 1998), LR 26:

Mark S. Riley
Assistant Executive Director

0010#006

**DECLARATION OF EMERGENCY**

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

Privately Owned Sewage Treatments
(LAC 33:IX.2331, 2381, 2383, 2385,
2769 and 2801-2809)(WP035E4)

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

This is a renewal of Emergency Rule WP035E3, which was effective June 26, 2000, and published in the *Louisiana Register* on July 20, 2000. The text remains the same. Rulemaking procedures have begun to promulgate this regulation. Proposed rule WP035 was published in the *Louisiana Register* on September 20, 2000. The earliest date it can become a final rule is December 20, 2000.

The delays inherent in the normal rulemaking process would imperil public health, safety, and welfare by precluding the legal operation of some sewage treatment facilities subject to Act 399. The legal operation of those sewage treatment facilities is essential for the proper treatment of sewage, necessary to reduce disease-causing microorganisms and pollutants that are harmful to fish and

other aquatic life. The cessation of operation of such a treatment facility, as would be required by law, would necessitate either bypassing the treatment facility (resulting in the discharge of untreated sewage) or blocking all flow of sewage through the collection system (rendering uninhabitable every building served by that system). The department cannot ensure protection of public health, welfare, and the environment without the issuance of discharge permits with proper effluent limitations and monitoring requirements.

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

This Emergency Rule is effective October 25, 2000, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever comes first. For more information concerning WP035E4, you may contact the Regulation Development Section at (225) 765-0399. Adopted this ninth day of October, 2000.

**Title 33**
**ENVIRONMENTAL QUALITY**
**Part IX. Water Quality Regulations**
**Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**
**Subchapter B. Permit Application and Special LPDES Program Requirements**
**§2331. Application for a Permit**

* * *

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

P. Additional Requirements for Privately-Owned Sewage Treatment Facilities Regulated by the Public Service Commission. Privately-owned sewage treatment facilities regulated by the Public Service Commission must also comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W. Following receipt of the permit application the administrative authority shall calculate and subsequently notify the applicant of the "waste discharge capacity per day" for the facility. The applicant will use this figure to determine the amount of the financial security required by LAC 33:IX.Chapter 23.Subchapter W. The applicant shall subsequently obtain and supply the department with the financial security document in accordance with LAC 33:IX.Chapter 23.Subchapter W. No permit shall be issued after July 1, 1999, without the required financial security, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination**
**§2381. Transfer of Permits**

* * *

[See Prior Text in A - B.1]

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

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

4. additional requirements are met for privately-owned sewage treatment facilities regulated by the Public Service Commission when transferred after July 1, 1999. The new permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

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

* * *

[See Prior Text in A - B.2]

C. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§2385. Minor Modifications of Permits**

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

1. correct typographical errors;

2. require more frequent monitoring or reporting by the permittee;

3. change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

4. allow for a change in ownership or operational control of a facility where the state administrative authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the state administrative authority. The new permittee of a privately-owned sewage treatment facility regulated by the Public Service Commission must additionally comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

* * *

[See Prior Text in A. 5 - 7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

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

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

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

* * *

[See Prior Text in A.1]

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

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

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

* * *

[See Prior Text in B - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:726 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

### Subchapter W. Financial Security

### §2801. Applicability

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

### §2803. Acceptable Form of Financial Security

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

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

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

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

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

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

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

PERFORMANCE BOND

Date bond was executed:______________________

Effective date:______________________________

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

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

State of incorporation:______________________

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

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

Total penal sum of bond: $______________

Surety's bond number: __________________

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

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

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

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

laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

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

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

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

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

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

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

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

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

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

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

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]

CORPORATE SURETY

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

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

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

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

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

d. the wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE LETTER OF CREDIT

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

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the conditions specified in LAC 33:IX.Chapter 23.Subchapter W for its [list site identification number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars $__________ upon presentation of:

(1). A sight draft, bearing reference to the Letter of Credit No.________ drawn by the administrative authority, together with;

(2). A statement, signed by the administrative authority, declaring that the amount of the draft is payable pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

### §2805. Amount of Required Financial Security

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

B. The secretary may, in his discretion, allow a single financial security instrument to satisfy the requirements of this Subchapter for up to four permits held by the same permittee, if the amount of financial security provided by that instrument is large enough to satisfy the requirements of Subsection A of this Section for the facility with the greatest amount of wastewater discharge per day.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

### §2807. Conditions for Forfeiture

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

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

a. the discharge of pollutants exceeding limitations imposed by applicable permits;

b. failure to utilize or maintain adequate disinfection facilities;

c. failure to correct overflows or backups from the collection system;

d. a declaration of a public health emergency by the state health officer; and

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

### §2809. Use of Proceeds

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

J. Dale Givens
Secretary

0010#097

## DECLARATION OF EMERGENCY

**Office of the Governor**
**Division of Administration**
**Office of the Commissioner**

Digital Signatures (LAC 4:I.Chapter 7)

In accordance with R.S. 49:953(B), the Division of Administration finds it necessary to adopt this Rule on an emergency basis to comply with the requirements of the Electronic Signatures in Global and National Commerce Act, PL 106-229, which becomes effective on October 1, 2000. This federal legislation preempts state law in certain instances regarding the acceptance of electronic records and electronic signatures. In order to insure compliance among the various state agencies, and to provide guidance on how to implement this Act, the Division of Administration has deemed it necessary that these rules be adopted on an emergency basis.

These rules shall take effect on September 29, 2000, and shall be in effect for 120 days.

**Title 4**
**ADMINISTRATION**
**Part I. General Provisions**

### Chapter 7. Implementation of Electronic Signatures in Global and National Commerce Act-P.L. 106-229

### §701. Short Title

A. These emergency procedures are in response to the Federal "Electronic Signatures in Global and National Commerce Act" (e-sign) effective October 1, 2000. E-sign applies only to the use of electronic records and signatures in interstate or foreign commerce. These rules may be referred to as the "E-Sign Rules."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### §703. Exemptions

A. State agency transactions that are not governed by the Electronic Signatures in Global and National Commerce Act, PL 106-229, hereinafter referred to as the "e-sign," are not subject to these emergency procedures.

B. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval and do not conflict with e-sign, shall remain in effect.

C. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval with sections that are in conflict with e-sign, shall have all sections of these procedures remain in effect that are not in conflict with e-sign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### §705. General

A. This section applies to all written electronic communications which are sent to a state agency over the Internet or other electronic network or by another means that is acceptable to the state agency, for which the identity of the

sender or the contents of the message must be authenticated, and for which no prior agreement between the sender and the receiving state agency regarding message authentication existed as of the effective date of this section. This section does not apply to or supersede the use and expansion of existing systems which are not in conflict with the Federal "Electronic Signatures in Global and National Commerce Act:"

1. for the receipt of electronically filed documents pursuant to applicable Louisiana statutory law and promulgated rules and regulations, where the purpose of the written electronic communication is to comply with statutory filing requirements and the receiving state agency or local government is not a party to the underlying transaction which is the subject of the communication; or

2. for the electronic approval of payment vouchers under rules adopted by the State Treasurer pursuant to applicable law.

B. Prior to accepting a digital signature, a state agency shall ensure that the level of security used to identify the signer of a message and to transmit the signature is sufficient for the transaction being conducted. A state agency that accepts digital signatures may not effectively discourage the use of digital signatures by imposing unreasonable or burdensome requirements on persons wishing to use digital signatures to authenticate written electronic communications sent to the state agency.

C. A state agency that accepts digital signatures shall not be required to accept a digital signature that has been created by means of a particular acceptable technology described in Subsection D of this section if the state agency:

1. determines that the expense that would necessarily be incurred by the state agency in accepting such a digital signature is excessive and unreasonable;

2. provides reasonable notice to all interested persons of the fact that such digital signatures will not be accepted, and of the basis for the determination that the cost of acceptance is excessive and unreasonable; and

3. files an electronic copy (in html format) of the notice with the Division of Administration. The Division of Administration shall make a copy of such notice available to the general public via the World Wide Web.

D. A state agency shall ensure that all written electronic communications received by the state agency and authenticated by means of a digital signature in accordance with this section, as well as any information resources necessary to permit access to the written electronic communications, are retained by the state agency as necessary to comply with applicable law pertaining to audit and records retention requirements.

E. Guidelines Agencies Should Use in Adopting an Electronic Signature Technology

1. An agency's determination of which technology is appropriate for a given transaction must include a risk assessment, and an evaluation of targeted customer or user needs. The initial use of the risk assessment is to identify and mitigate risks in the context of available technologies and their relative total costs and effects on the program being analyzed. The assessment also should be used to develop baselines and verifiable performance measures that track the agency's mission, strategic plans, and performance objectives. Agencies must strike a balance, recognizing that achieving absolute security is likely to be in most cases highly improbable and prohibitively expensive.

2. The identity of participants to a transaction may not need to be authenticated. If authentication is required, several options are available: ID and Passwords for a web-based transaction may be sufficient, however the user login session should be encrypted using either Secured Sockets Layer (SSL) or Virtual Private Networks (VPN) or an equivalent encryption technology.

3. Digital Signatures/Certificates may offer increased security (positive ID), however this will vary depending on:

a. who issues the certificates;

b. what is the identity-proofing process (e.g., are you using Social Security Number, photo IDs, biometrics); and

c. is the certificate issued remotely via software or mail, or is "in person" identification required?

4. In determining whether an electronic signature is required or is sufficiently reliable for a particular purpose, agencies should consider the relationships between the parties, the value of the transaction, and the likely need for accessible, persuasive information regarding the transaction at some later date (e.g., audit or legal evidence). The types of transactions may require different security control measures, based on security risks and legal obligations:

a. transactions involving the transfer of funds;

b. transactions where the parties commit to actions or contracts that may give rise to financial or legal liability;

c. transactions involving information protected under state or federal law or other agency-specific statutes obliging that access to the information be restricted;

d. transactions where the party is fulfilling a legal responsibility which, if not performed, creates a legal liability (criminal or civil);

e. transactions where no funds are transferred, no financial or legal liability is involved and no privacy or confidentiality issues are involved.

5. Agency transactions fall into five general categories, each of which may be vulnerable to different security risks:

a. intra-agency transactions;

b. inter-agency transactions (i.e., those between state agencies);

c. transactions between a state agency and federal or local government agencies;

d. transactions between a state agency and a private organization-contractor, non-profit organization, or other entity;

e. transactions between an agency and a member of the general public.

6. Agencies should follow several privacy tenets:

a. electronic authentication should only be required where needed. Many transactions do not need, and should not require, detailed information about the individual;

b. when electronic authentication is required for a transaction, do not collect more information from the user than is required for the application;

c. the entity initiating a transaction with a state agency should be able to decide the scope of their electronic means of authentication.

7. When agencies evaluate the retention requirements for specific records, they should consider the following if the record was signed with an electronic signature.

a. *Low Risk*Csimple electronic signature (e.g., typed name on an e-mail message)

b. *High Risk*C*Digitally-Signed Communication*Ca message that has been processed by a computer in such a manner that ties the message to the individual that signed the message. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

8. If the record contains a digital signature, the following additional documents may be required:

a. a copy of the *Public Key*;

b. a copy of the Certificate Revocation List (CRL) showing the validity period of the certificate or a copy of the On-line Certificate Status Protocol (OCSP) results;

c. Certification Practice Statement (CPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### §707 Definitions

A. The following words and terms, when used in this section, shall have the following meanings unless the context expressly indicates otherwise:

*Asymmetric Cryptosystem*Ca computer-based system that employs two different but mathematically related keys with the following characteristics:

a. one key encrypts a given message;

b. one key decrypts a given message; and

c. the keys have the property that, knowing one key, it is computationally infeasible to discover the other key.

*Certificate*Ca message which:

a. identifies the certification authority issuing it;

b. names or identifies its subscriber;

c. contains the subscriber's public key;

d. identifies its operational period;

e. is digitally signed by the certification authority issuing it; and

f. conforms to ISO X.509 Version 3 standards.

*Certificate Manufacturer*Ca person that provides operational services for a Certification Authority or PKI Service Provider. The nature and scope of the obligations and functions of a Certificate Manufacturer depend on contractual arrangements between the Certification Authority or other PKI Service Provider and the Certificate Manufacturer.

*Certificate Policy*Ca document prepared by a Policy Authority that describes the parties, scope of business, functional operations, and obligations between and among PKI Service Providers and End Entities who engage in electronic transactions in a Public Key Infrastructure.

*Certification Authority*Ca person who issues a certificate.

*Certification Practice Statement*Cdocumentation of the practices, procedures, and controls employed by a Certification Authority.

*Digital Signature*Can electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature, and that complies with the requirements of this section.

*Digitally-Signed Communication*Ca message that has been processed by a computer in such a manner that ties the message to the individual that signed the message.

*End Entities*Csubscribers or Signers and Relying Parties.

*Escrow Agent*Ca person who holds a copy of a private key at the request of the owner of the private key in a trustworthy manner.

*Handwriting Measurements*Cthe metrics of the shapes, speeds and/or other distinguishing features of a signature as the person writes it by hand with a pen or stylus on a flat surface.

*Key Pair*Ca private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify a digital signature that the private key creates.

*Local Government*Ca parish, municipality, special district, or other political subdivision of this state, or a combination of two or more of those entities.

*Message*Ca digital representation of information.

*Person*Can individual, state agency, local government, corporation, partnership, association, organization, or any other legal entity.

*PKI*CPublic Key Infrastructure.

*PKI Service Provider*Ca *Certification Authority*, *Certificate Manufacturer*, *Registrar*, or any other person that performs services pertaining to the issuance or verification of certificates.

*Policy Authority*Ca person with final authority and responsibility for specifying a Certificate Policy.

*Private Key*Cthe key of a key pair used to create a digital signature.

*Proof of Identification*Cthe document or documents or other evidence presented to a Certification Authority to establish the identity of a subscriber.

*Public Key*Cthe key of a key pair used to verify a digital signature.

*Public Key Cryptography*Ca type of cryptographic technology that employs an asymmetric cryptosystem.

*Registrar*Ca person that gathers evidence necessary to confirm the accuracy of information to be included in a Subscriber's certificate.

*Relying Party*Ca state agency that has received an electronic message that has been signed with a digital signature and is in a position to rely on the message and signature.

*Role-Based Key*Ca key pair issued to a person to use when acting in a particular business or organizational capacity.

*Signature Digest*Cthe resulting bit-string produced when a signature is tied to a document using Signature Dynamics.

*Signer*Cthe person who signs a digitally signed communication with the use of an acceptable technology to uniquely link the message with the person sending it.

*State Agency*Ca department, commission, board, office, council, or other agency in the executive branch of state government that is created by the constitution, Executive Order, or a statute of this state. Higher education, the legislature and the judiciary are to be considered State

agencies to the extent that the communication is pursuant to a state law applicable to such entities.

*Subscriber*—a person who:

a. is the subject listed in a certificate;

b. accepts the certificate; and

c. holds a private key which corresponds to a public key listed in that certificate.

*Technology*—the computer hardware and/or software-based method or process used to create digital signatures.

*Written Electronic Communication*—a message that is sent by one person to another person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### §709. Digital Signatures Must be Created by an Acceptable Technology

A. For a digital signature to be valid for use by a state agency, it must be created by a technology that is accepted for use by the Division of Administration pursuant to guidelines listed in §711 of this document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### §711. Acceptable Technology

A. The technology known as Public Key Cryptography is an acceptable technology for use by state agencies, provided that the digital signature is created consistent with the following.

1. A public key-based digital signature must be unique to the person using it. Such a signature may be considered unique to the person using it if:

a. the private key used to create the signature on the message is known only to the signer or, in the case of a role-based key, known only to the signer and an escrow agent acceptable to the signer and the state agency; and

b. the digital signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetric cryptosystem and the signer's private key; and

c. although not all digitally signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and

d. it is computationally infeasible to derive the private key from knowledge of the public key.

2. A public-key based digital signature must be capable of independent verification. Such a signature may be considered capable of independent verification if:

a. the relying party can verify the message was digitally signed by using the signer's public key to decrypt the message; and

b. if a certificate is a required component of a transaction with a state agency, the issuing PKI Service Provider, either through a certification practice statement, certificate policy, or through the content of the certificate itself, has identified what, if any, proof of identification it required of the signer prior to issuing the certificate.

3. The private key of public-key based digital signature must remain under the sole control of the person using it, or in the case of a role-based key, that person and an escrow agent acceptable to that person and the state agency. Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, must exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's digital signature.

4. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

5. Acceptable PKI Service Providers

a. The Division of Administration shall maintain an "Approved List of PKI Service Providers" authorized to issue certificates for digitally signed communications sent to state agencies or otherwise provide services in connection with the issuance of certificates. The list may include, but shall not necessarily be limited to, Certification Authorities, Certificate Manufacturers, Registrars, and/or other PKI Service Providers accepted and approved for use in connection with electronic messages transmitted to other state or federal governmental entities. A copy of such list may be obtained directly from the Division of Administration, or may be obtained electronically via the World Wide Web.

b. State agencies shall only accept certificates from PKI Service Providers that appear on the "Approved List of PKI Service Providers."

c. The Division of Administration shall place a PKI Service Provider on the "Approved List of PKI Service Providers" after the PKI Service Provider provides the Division of Administration with a copy of its current certification practice statement, if any, and a copy of an unqualified performance audit performed in accordance with standards set in the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 70 (S.A.S. 70) to ensure that the PKI Service Provider's practices and policies are consistent with the requirements of the PKI Service Provider's certification practice statement, if any, and the requirements of this section.

d. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for one year or less shall undergo a SAS 70 Type One audit - A Report of Policies and Procedures Placed in Operation, receiving an unqualified opinion.

e. In order to be placed on the "Approved List of PKI Service Providers " a PKI Service Provider that has been in operation for longer than one year shall undergo a SAS 70 Type Two audit—A Report of Policies and Procedures Placed in Operation and Test of Operating Effectiveness, receiving an unqualified opinion.

f. In lieu of the audit requirements of Subparagraphs d and e above, a PKI Service provider may be placed on the "Approved List of PKI Service Providers "upon providing the Division of Administration with documentation issued by a person independent of the PKI Service Provider that is indicative of the security policies and procedures actually employed by the PKI Service Provider and that is acceptable to the Division of Administration in its sole discretion. The Division of

Administration may request additional documentation relating to policies and practices employed by the PKI Service Provider indicating the trustworthiness of the technology employed and compliance with applicable guidelines published by the Division of Administration.

g. To remain on the "Approved List of PKI Service Providers" a Certification Authority must provide proof of compliance with the audit requirements or other acceptable documentation to the Division of Administration every two years after initially being placed on the list. In addition, a Certification Authority must provide a copy of any changes to its certification practice statement to the Division of Administration promptly following the adoption by the Certification Authority of such changes.

h. If the Division of Administration is informed that a PKI Service Provider has received a qualified or otherwise unacceptable opinion following a required audit or if the Division of Administration obtains credible information that the technology employed by the PKI Service Provider can no longer reasonably be relied upon, or if the PKI Service Provider's certification practice statement is substantially amended in a manner that causes the PKI Service Provider to become no longer in compliance with the audit requirements of this section, the PKI Service Provider may be removed from the "Approved List of PKI Service Providers" by the Division of Administration. The effect of the removal of a PKI Service Provider from the "Approved List of PKI Service Providers" shall be to prohibit state agencies from thereafter accepting digital signatures for which the PKI Service Provider issued a certificate or provided services in connection with such issuance for so long as the PKI Service Provider is removed from the list. The removal of a PKI Service Provider from the "Approved List of PKI Service Providers" shall not, in and of itself, invalidate a digital signature for which a PKI Service Provider issued the certificate prior to its removal from the list.

B. The state may elect to enact or adopt the Federal Uniform Electronic Transactions Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### §713. Provisions for Adding New Technologies to the List of Acceptable Technologies

A. Any person may, by providing a written request that includes a full explanation of a proposed technology which meets the requirements of §709 in this Emergency Rule, petition the Division of Administration to review the technology. If the Division of Administration determines that the technology is acceptable for use by state agencies, the Division of Administration shall draft proposed administrative rules which would add the proposed technology to the list of acceptable technologies in §711 of this Emergency Rule.

B. The Division of Administration has 90 days from the date of the request to review the petition and either accept or deny it. If the Division of Administration does not approve the request within 90 days, the petitioner's request shall be considered denied. If the Division of Administration denies the petition, it shall notify the petitioner in writing of the reasons for denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

Mark C. Drennen
Commissioner

0010#019

## DECLARATION OF EMERGENCY

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

Wax Lake Waterfowl Hunting Season

Use of lands and water bottoms during the 2000-2001 waterfowl hunting season within the Wax Lake area of St. Mary Parish, Louisiana

The Division of Administration, State Land Office, has adopted the following Emergency Rule in accordance with The Administrative Procedure Act, R.S. 49:950 et seq., which Emergency Rule will be effective October 15, 2000 and remain in effect for 120 days or until finalized as a Rule, whichever comes first.

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

**Emergency Rule**

Effective October 15, 2000 and thereafter, the State Land Office adopts the following rules to govern use of the area of Wax Lake claimed by the state for hunting during the duration of the 2000-2001 waterfowl hunting season.

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

2. The use of marsh buggies within the Wax Lake Area is prohibited during the duration of the 2000-2001 waterfowl hunting season. Violations of these provisions shall result in a civil penalty of $100.00 per violation, enforceable by duly authorized law enforcement agents, wildlife agents, and peace officers, including the Louisiana State Police, Louisiana Wildlife and Fisheries Agents,

Sheriffs and their deputies, Constables, and other such authorized agents and officers.

3. The use of airboats outside the channel of Wax Lake outlet is prohibited during the duration of the 2000-2001 waterfowl hunting season. Violations of these provisions shall result in a civil penalty of $100.00 per violation, enforceable by duly authorized law enforcement agents, wildlife agents, and peace officers, including the Louisiana State Police, Louisiana Wildlife and Fisheries Agents, Sheriffs and their deputies, Constables, and other such authorized agents and officers.

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

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

6. Challenges to the validity of this Declaration of Emergency shall be in conformity with the provisions of R.S. 49:953(B)(3).

Mark C. Drennen
Commissioner of Administration

0010#027

## DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies—Public Non-state Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to Title XIX of the Social Security Act. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule March 20, 1998, governing the disproportionate share payment methodologies for hospitals *(Louisiana Register*, Volume 24, Number 3). This Rule was subsequently amended to include the definition of a teaching hospital as required by Act 19 of the 1998 Regular Session of the Louisiana Legislature *(Louisiana Register,* Volume 25, Number 5). The May 20, 1999 Rule was later amended to revise the qualifying criteria for small rural hospitals as required by Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature *(Louisiana Register, Volume 26, Number 3)*.

The Department adopted an Emergency Rule effective June 21, 1999 that established an additional disproportionate share hospital group for state fiscal year 1999 only, for large public non-state rural hospitals that had at least 25 percent Medicaid inpatient days utilization. These qualifying hospitals were allowed to certify uncompensated care expenditures as match and to receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals *(Louisiana Register,* Volume 25, Number 6).

Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature directs the Department of Health and Hospitals to provide uncompensated care payments for public hospitals which have notified DHH that they intend to downsize to 60 beds or less as of June 19, 2000. In compliance with Act 11, the Department has determined it is necessary to establish an additional disproportionate share hospital group for state fiscal year 2001 only, for public non-state hospitals with no more than 60 licensed beds as of July 1, 2000. These qualifying hospitals will be allowed to certify the state match and to receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals.

This action is necessary to enhance federal revenues. It is estimated that the expenditures necessary to implement this Rule will be $1,750,000 in federal funds only for state fiscal year 2001. This Rule will not require the appropriation of any additional state general funds.

**Emergency Rule**

Effective October 21, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes an additional disproportionate share hospital group for state fiscal year 2001 only, for public non-state hospitals with no more than 60 licensed beds as of July 1, 2000. These qualifying hospitals are allowed to certify uncompensated care expenditures as match and to receive the equivalent of Federal Financial Participation (FFP) in the same manner as small public non-state rural hospitals. A public non-state hospital is a hospital that is owned by a local government; has no more than 60 licensed beds as of July 1, 2000; and is not included in section III.A, or B of the May 20, 1999 Rule. Qualifying hospitals must meet the qualifying criteria contained in section II.A, B, or C and E of the May 20, 1999 Rule. All other provisions contained in the May 20, 1999 Rule remain intact.

For state fiscal year 2001, disproportionate share payments to each qualifying public non state hospital are equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the cost reporting period ended during the period April 1, 1999 through March 31, 2000 multiplied by the amount set for this pool. Payment will not exceed each qualifying hospital's actual uncompensated costs or the amount appropriated. If the cost

reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0010#069

**DECLARATION OF EMERGENCY**

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

Early Periodic Screening Diagnosis and Treatment (EDPST)—Dental Services

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

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount which any third-party coverage would pay. As a result of the budgetary shortfall, the bureau adopted a Rule to reduce the reimbursement fees for EPSDT dental services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau has now determined it is necessary to restore the 7 percent reduction that was previously made to the reimbursement fees for EPSDT Dental services. In addition, the reimbursement fees for certain designated procedure codes will be increased.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

**Emergency Rule**

Effective for dates of service October 30, 2000, and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction that was previously made to the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services. In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates.

| Procedure Code | Procedure Name | New Rate |
|---|---|---|
| 02110 | Amalgam-1 Surface Deciduous | $ 35.00 |
| 02120 | Amalgam-2 Surface Deciduous | $ 45.00 |
| 02130 | Amalgam-3 Surface Deciduous | $ 55.00 |
| 02140 | Amalgam-1 Surface Permanent | $ 35.00 |
| 02150 | Amalgam-2 Surface Permanent | $ 45.00 |
| 02160 | Amalgam-3 Surface Permanent | $ 55.00 |
| 02930 | Stainless Steel Crown-Primary | $ 75.00 |
| 02931 | Stainless Steel Crown-Permanent | $ 75.00 |
| 02950 | Crown Buildup | $ 75.00 |
| 05211 | Upper Acrylic Partial w/Clasp | $355.00 |
| 05212 | Lower Acrylic Partial w/Clasp | $355.00 |
| 07110 | Simple Extraction | $ 35.00 |
| 07210 | Surgical Extraction | $ 50.00 |

Interested persons may submit written comments to the following address: Ben A. Bearden, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0010#070

**DECLARATION OF EMERGENCY**

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

Home Health Program—Extended Skilled Nursing Visits Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This Emergency Rule shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for home health extended skilled nursing visits provided to medically fragile Medicaid recipients under the age of 21. Reimbursement is made at a prospective rate established by the bureau. As a result of a budgetary shortfall, the Bureau adopted a Rule to reduce the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to $20 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau has now determined it is necessary to increase the reimbursement rate for the home health extended skilled nursing visit to $24.50 per hour.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

**Emergency Rule**

Effective for dates of service October 30, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increase the reimbursement rate for home health extended skilled nursing visits to $24.50 per hour.

Interested persons may submit written comments to the following address: Ben A. Bearden, Office of the Secretary, 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 Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0010#072

## DECLARATION OF EMERGENCY

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

Medical Transportation Program
Emergency Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau adopted a Rule to reduce the reimbursement for emergency ambulance transportation services by 7 percent (*Louisiana Register,* Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the Bureau has now determined it is necessary to restore the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services will be increased by 2 percent.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

**Emergency Rule**

Effective for dates of service October 30, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services is increased by 2 percent.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0010#071

## DECLARATION OF EMERGENCY

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

Medical Transportation Program
Non-Emergency Ambulance Services

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

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third-party coverage would pay. As a result of a budgetary shortfall the bureau adopted a Rule to reduce the base rate for non-emergency ambulance transportation services to the rate that was in effect prior to July 1, 1999 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the Bureau has now determined it is necessary to restore the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes will be increased.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

**Emergency Rule**

Effective for dates of service October 30, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates:

| | | |
|---|---|---|
| A0360 | Base rate, BLS, first trip | $125.00 |
| A0364 | Base rate, no specialized ALS services, first trip | $125.00 |
| A0366 | Base rate, Specialized ALS services, first trip | $125.00 |
| A0380 | Loaded miles, BLS, first trip | $ 4.32 |
| A0390 | Loaded miles, ALS, first trip | $ 4.32 |
| Z5100 | Transfer, loaded miles, BLS, first trip | $125.00 |
| Z5101 | Transfer, loaded miles, ALS, first trip | $125.00 |
| Z5102 | Loaded miles, ALS or BLS, second trip | $4.32 |

| Z9497 | Base rate, ALS or BLS, second trip | $125.00 |
|---|---|---|

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0010#073

## DECLARATION OF EMERGENCY

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

Professional Services ProgramCPhysician Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 49:950 et seq. and in accordance with the Administrative Procedure Act. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPC) Reimbursement for these services is a flat fee established by the bureau minus the amount which any third-party coverage would pay. As a result of a budgetary shortfall, the bureau determined it was necessary to reduce the reimbursement paid to physicians for specific procedure codes by 7 percent (*Louisiana Register,* Volume 26, Number 2). Reimbursement was reduced for selected locally-assigned HCPCS and the following CPT procedure codes: surgery codes (10040-69979), medicine codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999) and pathology and laboratory codes (80048-89399).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the reimbursement to physicians for specific procedure codes. In addition, the reimbursement fees for certain designated procedure codes will be increased.

This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2000 Rule.

**Emergency Rule**

Effective for dates of service October 30, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restore the 7 percent reduction that was previously made to the reimbursement fees for selected locally-assigned HCPCS and the following CPT procedure codes: surgery codes (10040-69979), medicine codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999) and pathology and laboratory codes (80048-89399). In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates:

**Evaluation and Management**

| | | |
|---|---|---|
| 99212C $30.13 | 99213C $36.13 | 99214C $41.13 |
| 99215C $49.63 | 99283C $35.23 | |

**Follow-up Prenatal Visit**

| | |
|---|---|
| Z9005C $33.43 (03*) | $36.13 (09*) |

* type of service

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0010#074

## DECLARATION OF EMERGENCY

**Department of Natural Resources**
**Office of Conservation**

Pollution ControlCStatewide
Order No. 29-B (LAC 43:XIX.129)

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 for Emergency Rule**

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, a fifth Emergency Rule, adopted May 29, 1999, a sixth Emergency Rule, adopted September 26, 1999, a seventh Emergency Rule, adopted January 24, 2000, and an eighth Emergency Rule, adopted May 23, 2000 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 ninth Emergency Rule, effective September 20, 2000, 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 of Emergency Rule**

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. The fifth Emergency Rule required 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 ConservationCGeneral Operations**
**Subpart 1. Statewide Order No. 29-B**
**Chapter 1. General Provisions**
**§129. Pollution Control**

A. - L. …

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*Ca 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*Cdrilling 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 | completion, workover and stimulation 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 |
| 5 | wastes from permitted commercial facilities |
| 16 | crude oil spill clean-up waste |
| 50 | salvageable hydrocarbons |
| 99 | other approved E&P waste |

* * *

*NOW*Cexploration and production waste

* * *

M.2. - .5.i. …

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

ii. …

iii. 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 ($H_2S$) 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 $H_2S$ 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.l. …

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<br>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 26:

**Summary**

The Emergency Rule adopted herein above 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 September 20, 2000.
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 20th day of September, 2000.

Philip N. Asprodites
Commissioner of Conservation

0010#008

## DECLARATION OF EMERGENCY

**Department of Social Services**
**Office of Family Support**

Wrap-Around Child Care Program
(LAC 67:III.Chapter 52)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following Emergency Rule to continue the Wrap-Around Child Care Program effective September 29, 2000. This declaration is necessary to extend the original Emergency Rule of June 1, 2000 since it is effective for a maximum of 120 days and will expire before a final Rule takes effect. The agency intends to publish the Notice of Intent in November; it has been delayed while eligibility factors and other aspects of the program were being finalized.

The purpose of this program is to provide very low-income working families with quality, full-day/full-year child care services. This second Emergency Rule revises the first Emergency Rule, in that, it allows household members to be employed, or employed and attending a job training or educational program; it reduces the required work/activity hours from 30 hours to 20 hours per week; and it raises the poverty level for income limits from 100 percent to 130 percent. There are also nonsubstantive changes in some language. This Emergency Rule will remain in effect for a period of 120 days or until the final Rule takes effect.

**Title 67**
**SOCIAL SERVICES**
**Subpart 12. Child Care Assistance**
**Chapter 52. Wrap-Around Child Care Program**
**§5201. Authority**

A. The Wrap-Around Child Care Program is established effective June 1, 2000 and is administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

**§5202. Definitions**

*Head of Household*Cthe individual who may apply for Wrap-Around Child Care services for a child who customarily resides more than half the time with him/her, that is, the child's parent or the adult with primary responsibility for the child's care and financial support if the child's parent is not living in the home or is living in the home but under age 18 and not emancipated by law.

*Household*—a group of individuals who live together consisting of the head of household, the spouse of the head of household, and all children under the age of 18, including the minor unmarried parent of any dependent children who need child care services (unless the minor unmarried parent has been emancipated by law).

*Training and Employment Mandatory Participant*—each household member who is required to be employed, or in a combination of employment and attendance at a job training or educational program, including the head of household, spouse of head of household, and the minor unmarried parent of a child who needs Wrap-Around Child Care services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

### §5203. Conditions of Eligibility

A. A household must meet all of the following eligibility criteria:

1. all children receiving services must reside with their parent or adult head of household;

2. any child receiving Wrap-Around Child Care Program services must not be receiving assistance from the Family Independence Temporary Assistance Program (FITAP) or the Child Care Assistance Program (CCAP) to ensure that Wrap-Around services are not considered assistance according to 45 CFR 260.31 and that there will be no duplication of services;

3. the head of household, that person's spouse, or nonlegal spouse (if the parent of a child in the household), including any minor unmarried parent who is not legally emancipated and whose child(ren) are in need of Wrap-Around Child Care services, must be:

a. employed a minimum average of 20 hours per week and all countable work hours must be paid at the federal minimum hourly wage; or

b. engaged in a combination of employment, which is paid at least at the federal minimum hourly wage, and job training or an educational program, for a combined average of at least 20 hours per week;

4. each parent and/or adult household member must be working, or engaged in a combination of working and attending a job training or educational program, during the hours that child care is needed, that is, child care will only be provided during hours that parents and/or adult household members are actually at work, a job training, an educational program, or commuting to, or from, these activities;

5. the household must include at least one child with a need for Wrap-Around Child Care services defined as full-day/full-year child care, that is, full time (30 or more hours per week) or part-time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year, who is:

a. under age 13; or

b. age 13 to under age 18, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by a physician or licensed psychologist;

6. the child needing care must customarily reside more than half of the time with the head of household who is applying for child care services, ensuring that only one household can receive child care service for that child;

7. the head of household or another adult household member must be responsible for the payment of child care costs for a child who lives in the household. A need for child care services does not exist if child care costs will be paid by a third party who is not a household member. However, this will not apply if a third party, not legally obligated to make child care payments, is temporarily doing so until payments begin; and

8. there must be a current need for child care at the time of application.

B. The household must qualify under the income guidelines set forth in §5205, based on the following income sources:

1. gross earnings from all sources of employment and the profit from self-employment; and

2. any unearned income, such as child support, alimony, retirement and disability benefits, Social Security, SSI, unemployment compensation benefits, or veteran's benefits, that is received by any household member.

C. A slot must be available with the selected Head Start grantee.

D. The child in need of care must be either a citizen or a qualified alien. Program policy on qualified aliens is the same as policy defined in LAC 67:III.1223

E. The household must provide the information and verification necessary for determining eligibility and payment amount. Required verification includes:

1. proof of social security numbers for all household members;

2. birth or baptismal certificates for all children in need of care;

3. proof of all countable household income; and

4. proof of the hours of all employment.

F. Eligible cases may be assigned a certification period of up to 12 months.

G The household is required to report any changes that could affect eligibility or payment amount within 10 days of the change. Failure to report a change that affects eligibility or payment amount may result in action to recover any ineligible payment.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

### §5205. Income Limits

A. A household must have total countable income no greater than the monthly maximum amount for the appropriate household size as follows, based on 130 percent of poverty level:

| Household Size | Monthly Maximum | Household Size | Monthly Maximum |
|---|---|---|---|
| | | 11 | $4049 |
| 2 | $1219 | 12 | $4364 |
| 3 | $1533 | 13 | $4679 |
| 4 | $1848 | 14 | $4994 |
| 5 | $2162 | 15 | $5309 |
| 6 | $2476 | 16 | $5624 |
| 7 | $2790 | 17 | $5939 |
| 8 | $3104 | 18 | $6254 |
| 9 | $3419 | 19 | $6569 |
| 10 | $3734 | 20 | $6884 |

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

### §5207. Rights and Responsibilities

A. The head of the household applying for, or receiving, Wrap-Around Child Care services shall have certain rights and responsibilities.

1. Information provided by the household will not be released without written consent, except to agencies and officials as allowed by law (LAC 67:III.101-103).

2. The household is entitled to receive timely, written notification of action taken on applications or reported changes in household circumstances.

3. The head of household is responsible for reporting the following within 10 days of the change:

a. termination of employment or attendance at a job training or educational program;

b. reduction to less than an average of 20 hours per week of employment or a combination of employment and job training or educational program;

c. an eligible child moves out of the home;

d. household composition;

e. earned and unearned income; and

f. number of days or hours that a child is in care.

4. Any applicant or recipient who has been denied services under the program may appeal the denial by filing a written request within 10 days of receipt of the written notice of denial. The request must contain a copy of the notice of denial and must state the reason(s) the applicant believes services were wrongfully denied. Notice of denial is deemed received on the seventh calendar day after it is mailed to the applicant or recipient with correct postage paid at the address listed on his most recent application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

### §5209. Head Start Grantees

A. The agency will provide services to eligible individuals through contracts with some Head Start Program grantees for a designated number of slots. Available slots will be filled on a first-come, first-served basis.

B. The contracted Head Start grantee will establish a child care program that consists of full-day/full-year child care, that is, full time (30 or more hours per week) or part time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year.

C. The center shall maintain the following child/staff ratios:

1. 4:1 up to age 12 months;

2. 6:1 from age 12 months to age 24 months;

3. 8:1 from age 24 months to age 36 months;

4. 10:1 from age 36 months to age 60 months;

5. 16:1 from age 5 years to age 12 years;

6. children with disabilities will have a child/staff ratio sufficient to provide adequate care but under no circumstances shall the child/staff ratio exceed 16:1.

D. Each group/class shall consist of two staff members for the appropriate number of children. In mixed-age groups, the ratio and group size for the youngest child shall be used.

E. Each group/class shall be supervised by one teacher and one aide, or by two teachers. All teachers at each facility must have at least a CDA (Child Development Associate credential) for the appropriate age of children.

F. The grantee shall ensure that procedures are in place to prevent, identify, and report suspected abuse or neglect of children as required by Children's Code Articles 601-610 and 45 CFR 1301.31.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

### §5211. Payment

A. The Head Start grantee will be paid a weekly rate of $85 per week ($17 per day) per child for full-day, full-time child care.

B. The Head Start grantee will be paid $2.12 per hour per child for part-time care.

C. The Head Start grantee will be paid $2.12 per hour for up to a maximum of eight hours per child ($17 per day) for allowable, holiday care provided in conjunction with part-time care during the school year.

D. Payment will not be made for a child who is absent from day care more than five days in a calendar month or for an extended closure by a provider of more than five consecutive days in a calendar month.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

J. Renea Austin-Duffin
Secretary

0010#009

## DECLARATION OF EMERGENCY

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

2000 Commerical King Mackerel Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department, by the commission in its Resolution of May 4, 2000, to close the 2000 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the secretary hereby declares:

Effective 12 p.m., August 26, 2000, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2001. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit. The prohibition on sale/purchase of king mackerel during the closure does

not apply to king mackerel that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in Federal waters of the Gulf of Mexico will close at 12 p.m., August 26, 2000. Closing the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0010#039

# Rules

RULE

**Department of Agriculture and Forestry**
**Horticulture Commission**

Qualifications for Examination and
Licensure or Permitting
(LAC 7:XXIX.105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby adopts regulations regarding the age of applicants for examination.

The Department of Agriculture and Forestry, Horticulture Commission amends these rules and regulations for the purpose of allowing someone to apply and take an examination for licensure immediately prior to their eighteenth birthday.

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

**Title 7**
**AGRICULTURE AND ANIMALS**
**Part XXIX. Horticulture Commission**
**Chapter 1. Horticulture**
**§105. Qualifications for Examination and Licensure or Permitting**

All applicants for examination and licensure or permitting under the provisions of R.S.3:3801, et seq., must have attained their eighteenth birthday before taking an examination and before being issued a license or permit. Provided, however, that an applicant for examination who is 17 years of age, but who will attain his or her eighteenth birthday between regularly scheduled examinations make apply for and take the examination immediately prior to his or her eighteenth birthday. No applicant who qualifies to take an examination before his or her eighteenth birthday shall be issued a license or permit before attaining his or her eighteenth birthday.

B.- D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:639 (June 1994), LR 26:2240 (October 2000).

Bob Odom
Commissioner

0010#057

RULE

**Department of Economic Development**
**Board of Certified Public Accountants**

Certified Public Accountants
(LAC:XIX.Chapters 1-21)

Editor's Note: A portion of this rule is being repromulgated to correct an error. The orginial rule may be viewed in its entirety on pages 1966-1991 of the September 20, 2000 edition of the *Louisiana Register*.

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of R.S. 37:74, the Board of Certified Public Accountants of Louisiana amends LAC 46:XIX. The action adopts, amends and repeals rules in response to changes in the Louisiana Accountancy Act, Act No. 473 of 1999, enacted on June 18, 1999. The action was necessary because many of the current rules became outdated or inapplicable based on changes in the state's accountancy law. The revised rules are the result of extensive review and study by the Board's Rules Committee. In addition, aside from the significant changes in the law affecting the regulation of CPAs and CPA firms, the Louisiana Accountancy Act made changes in where certain provisions appeared in R.S. 37:71-95. Therefore, changes have been made in the location or order of existing rules along with renaming, renumbering, and reordering the rule chapters and sections. No preamble has been prepared with respect to the revised rules which appear below.

**Title 46**
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**
**Part XIX. Certified Public Accountants**
**§1701. Independence, Integrity and Objectivity**

A. Independence

1. A licensee shall not issue a report on the financial statements of a client or in connection with any attest engagement for a client, in such a manner as to imply that he is acting as an independent public accountant with respect thereto, nor shall he perform any other service in which independence is required under professional standards, unless he is independent. Independence shall be considered to be impaired if, for example:

a. during the period of his professional engagement or at the time of issuing a report, the licensee:

i. had or was committed to acquire any direct or material indirect financial interest in the client; or

ii. was a trustee of any trust or executor or administrator of any estate if such trust or estate had, or was

committed to acquire, any direct or material indirect financial interest in the client; or

iii. had any joint, closely-held business investment with the client or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the licensee or the client; or

iv. had any loan to or from the client or any officer, director, or principal stockholder thereof other than permitted personal loans and grandfathered loans.

b. during the period covered by the financial statements, during the period of the professional engagement, or at the time of issuing a report, the licensee:

i. was connected with the client as a promoter, underwriter, or voting trustee, a director or officer, or in any capacity equivalent to that of an owner, a member of management, or of an employee; or

ii. was a trustee for any pension or profit sharing trust of the client; or

iii. receives a commission or had a commit ment to receive a commission from the client or a third party with respect to services or products procured for the client, including any related pension or profit-sharing trust, in violation of R.S. 37:83(K); or

iv. receives a contingent fee or had a commitment to receive a contingent fee from the client or a third party with respect to professional services performed for the client, including any related pension or profit-sharing trust, in violation of R.S. 37:83(L).

2. With respect to close relatives of the licensee, independence may be impaired depending on the nature of the relationships, the strength of the family bond which depends on the degree of closeness, the employment or audit sensitive activities of the individuals, or whether the individuals have significant influence over the engagement or the client, as applicable to the circumstances.

3. As in other matters involving professional judgement, the licensee is responsible for assessing his or her independence in appearance as well as in fact. Therefore, in making that determination, the licensee shall consider whether independence is affected by the circumstances of any relationships or transactions, including those listed in Subsection 1701.A.1 above, between the licensee and the client, together with its affiliated entities, owners, principals, officers, directors, and management and audit committee members, who are in a position to control, engage, terminate or otherwise influence an attest engagement or whose representations are relied upon during the engagement.

4. The foregoing examples are not intended to be all inclusive.

B. Integrity and Objectivity

1. A licensee in the performance of professional services shall neither knowingly misrepresent facts nor subordinate his judgment to that of others. He shall be objective and shall not place his own financial interests nor the financial interests of a third party ahead of the legitimate financial interests of the client or the public in any context in which the client or the public can reasonably expect objectivity from one using the CPA title.

2. If the licensee uses the CPA title in any way to obtain or maintain a client relationship, the board will presume the reasonable expectation of objectivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1114 (September 1997), LR 26:1983 (September 2000), repromulgated LR 26:2240 (October 2000).

Michael A. Henderson
Executive Director

0009#013

## RULE

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

Commerce and Industry Board (LAC 13:I.Chapter 1)

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

The following rules will implement R.S. 51:921 et seq., authorizing the Secretary of the Department of Economic Development to establish rules for the Board of Commerce and Industry. The Board of Commerce and Industry serves in an advisory capacity to the Department of Economic Development. The Commerce and Industry Board's duty and function is to review and approve or disapprove applications for tax incentive programs administered by the Office of Commerce and Industry.

**Title 13**
**ECONOMIC DEVELOPMENT**
**Part I. Financial Incentives Programs**

**Chapter 1. General Provisions**

**Subchapter A. General Rules**

**§101. Board of Commerce and Industry**

A. The principal offices of the board shall be at the Louisiana Department of Economic Development, Office of Commerce and Industry, located at One Maritime Plaza, Baton Rouge, Louisiana, or at such other place that the board may determine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2241 (October 2000).

**§103. Board Membership**

A. Number and Qualifications of Board Members. The board shall consist of 20 members, unless R.S. 51:923 is amended to provide for a different number of board members. Fifteen members shall be appointed by the governor from among representatives of the major economic groups within the state of Louisiana, one who shall be an elected municipal official appointed by the governor from a list of three names submitted by the Louisiana Municipal Association and one who shall be an elected police juror, councilman, commissioner or parish president appointed by the governor from a list of names submitted by the Louisiana Police Jury Association. In addition, the governor, or his designee, the lieutenant governor, or his designee, and the

secretary of the Department of Economic Development, or his designee, shall be ex officio members of the board with full right to participate in and vote on all matters.

B. Appointment. Each appointment by the governor shall be submitted to the senate for confirmation and shall again be submitted by the governor to the senate for confirmation every two years after the initial confirmation.

C. Term. The members, other than the governor, lieutenant governor and the secretary of the Department of Economic Development, shall serve for terms which shall be concurrent with the term of the governor making the appointments. The governor and lieutenant governor shall serve during the term of office of each. Other that the three *ex officio* members above, all other members shall continue to serve until their successor is appointed and takes office.

D. Vacancy. A vacancy occurring for any reason shall be filled in the manner provided in §103.A hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2241 (October 2000).

### §105. Compensation of the Board

A. Members of the board shall serve without compensation. Each member shall be entitled to reimbursement for the actual and necessary expenses incurred in the performance of official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

### §107. Meetings of the Board

A. Open Meeting. All meetings of the board shall be subject to the Open Meetings Law as provided in R.S. 42:1 et seq.

B. Annual Meeting. The year of the board shall begin February 1 each year. The meeting following the beginning of the year the board shall elect its officers who shall serve until the next annual meeting or until their successors are elected.

C. Regular Meetings. The board may meet as often as it deems necessary provided that there shall be not less than four regular meetings each year.

D. Special Meetings. A meeting may be called by the chairperson or by joint call of at least three of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board.

E. Quorum. Excluding any vacancies on the board, a majority of the members of the board shall constitute a quorum. In the absence of a quorum, a majority of the members present at the time and place of any meeting may adjourn such meeting from time to time, with notice given in accordance with the Open Meeting Law.

F. Parliamentary Procedure. Unless otherwise provided by law to the contrary, all meetings of the board shall be conducted in accordance with *Robert's Rules of Order*.

G. Meeting Place. The board, its committees and sub-committees, shall hold its meetings at the principal office of the board, or at such other place as may be fixed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

### §109. Notice

A. Notice By Mail. Under the provisions of Louisiana law or these rules, whenever notice is given to any member it shall not be construed to mean personal delivery of notice. Notice will be considered to be given in writing on the day the written notice is deposited in a post office with such notice bearing the member's address as it appears in the records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

### §111. Officers

A. The officers of the board shall be elected by the members of the board and shall be a chairperson and a vice-chairperson and such other officers as the board shall consider necessary. There shall be no prohibition against officers succeeding themselves.

1. Chairperson. The chairperson shall be a member of the board and shall preside at all meetings of the board at which he or she is present. The chairperson shall perform such other duties and have such other powers as from time to time may be assigned to the office by these rules or by the board. Election of the chairperson shall be at the annual meeting or such other time as may be necessary. The chairperson shall hold office until the next annual meeting.

2. Vice-Chairperson. The vice-chairperson shall be a member of the board. At the request of the chairperson or in the event of his absence or disability, the vice-chairperson shall perform all duties of the chairperson, and when so acting, shall have all the powers of, and be subject to all the restrictions upon, the chairperson. The vice-chairperson shall also perform such other duties and have such other powers as from time to time may be assigned to the office or to the vice-chairperson by these bylaws or by the board or by the chairperson. The vice-chairperson shall assume the role of chairperson of the screening committee. Election of the viceBchairperson shall be at the annual meeting or such other time as may be necessary. The vice-chairperson shall hold office until the next annual meeting.

B. Records. The board secretary shall keep an accurate record of all proceedings of the board, and shall be the custodian of all books, documents, and papers filed with the board and the minute books of the board. The secretary shall cause copies to be made of all minutes and other records and documents of the board and shall certify that such copies are true copies, and all persons dealing with the board may rely upon such certification. The records of the board shall be kept at the principal office of the board or at such other place that the board may determine. The records of the board shall be available for public inspection at reasonable times in the manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

### §113. Standing Committees

A. The board, by resolution adopted by a majority of the board then in office, may establish one or more standing committees, each which shall consist of three or more board members. Each committee shall have and exercise the authority of the board as contained within the resolution establishing such committee and shall perform such functions as shall be provided for in such resolution.

B. Appointment of Members. The officers and members of all standing and ad hoc committees shall be appointed by the chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000).

### §115. Speaking Before the Board

A. Time Limit Set on Speaking Before the Board

1. Petitions to the board by an applicant and/or representatives of same shall, as a group, be limited to at total of 10 minutes to put forward their plea.
2. Opponents to a given application shall, as a group, have a total of 10 minutes to put forward their opposition.
3. Any and all interested parties shall, as a group, have a total of 10 minutes to put forward their views.
4. If any group has more than one speaker, the group may divide their 10 minutes by the number of speakers in that group, however in no case will any group be allowed to speak for more than 10 minutes total.
5. Questions addressed to an applicant or others by a board member are not subject to the above time limits.

B. Any person wishing to appeal the action of the Board of Commerce and Industry or wishing to petition the board or any of its committees or sub-committees must submit their appeal or petition along with any necessary documentation to the Office of Commerce and Industry at least 30 days prior to the meeting of the Board of Commerce and Industry, the committee or sub-committee, during which the appeal or petition will be presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2243 (October 2000).

Harold Price
Assistant Secretary

0010#010

## RULE

## Department of Economic Development
## Economic Development Corporation

BIDCO Investment and Co-Investment Program
(LAC 19:VII.Chapter 71)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development, amends *Louisiana Administrative Code* Title 19, Corporations and Business; Part VII, Economic Development Corporation; Subpart 6, Louisiana Economic Development Corporation; Chapter 71, BIDCO Investment and Co-Investment Program.

## Title 19
## CORPORATIONS AND BUSINESS
## Part VII. Economic Development Corporation
## Subpart 6. Louisiana Economic Development Corporation

## Chapter 71. BIDCO Investment and Co-investment Program

### §7101. Definitions

*BIDCO*Ca business and industrial development corporation licensed by the Louisiana Office of Financial Institutions (OFI) with its business consisting of providing non-traditional capital and/or debt funding for Qualified Louisiana Businesses.

*Private Capital*Cpaid in cash from non-LEDC sources, available for investment in assets of the BIDCO. These non-LEDC sources may include other non-state governmental sources provided the non-state governmental funds do not exceed 50 percent of the private capital, and provided the non-state governmental funds are not directly or indirectly derived from state sources. For purposes of calculating the eligibility of a request for matching equity capital, components other than paid in cash will not be considered.

*Qualified Louisiana Business*Cany enterprise with its primary operations in Louisiana, or with substantially all of its production in Louisiana, and which has no more than 500 employees and has annual business receipts not in excess of $7,000,000.

*Seed Investor*Can investor in the start-up stages of the BIDCO, prior to certification by OFI and LEDC.

*Specialty BIDCO*Cdefined in accordance with the Office Of Financial Institution's BIDCO policy.

Definitions of other terms used herein are provided in the legislation which is reflected in Chapter 39-A of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:2386 through 2398.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 26:2243 (October 2000).

### §7103. Eligibility for Submission of an Application

A. In order to be eligible for consideration to receive a matching or co-investment equity capital investment by LEDC, the Applicant must fulfill the following eligibility requirements.

1. It must have obtained a license from OFI.
2. It must be a for profit Louisiana corporation.
3. In order to be eligible to receive an investment from LEDC, as described in Section 109, it must have raised a minimum of $1,000,000 of private capital, exclusive of LEDC funds. These private capital funds must be actual cash contributions. (Pursuant to R.S. 51:2392 (B) (2) (d)(2).)
4. Its Management must be experienced in debt and/or capital financing of the types and volume contemplated by the applicant BIDCO.
5. LEDC may consider applications from BIDCOs which have a businesslike mission but with special circumstances or specialized opportunities (herein "Specialty BIDCOs").
6. Owners and Investors cannot be in conflict with the Code of Governmental Ethics R.S. 42:1112. BIDCO's shall

not invest in a company in which a principal or officer of the BIDCO also has an interest in the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997), LR 26:2243 (October 2000).

**§7105. Application**

A. An application fee of $500 shall be submitted at the time of application.

B. Applications will be processed for a matching equity capital investment or for a co-investment as follows.

1. Applications will be processed in the order in which they are received.

2. LEDC staff will conduct an initial screening of the application for completeness.

3. An incomplete application will be returned to the submitter. A previously incomplete application may be resubmitted, which will establish a new time and date received for that application.

4. An incomplete application not resubmitted within 30 days will forfeit the application fee.

5. LEDC staff will begin the evaluation process within 30 days of receipt.

C. Information submitted with the Application either for a match investment or co-investment representing the Applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, La. R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC. However, in the event of a BIDCO's licensure surrender, dissolution, bankruptcy, or other indication of insolvency previously confidential information shall be disclosable under the Public Records Law.

D. A BIDCO shall submit to LEDC evidence of its OFI approval with the application.

E. Application for a matching investment will contain the following information. The Applicant may provide other information which it believes relevant. LEDC may request further information beyond what is specified below :

1. name of BIDCO, address (mailing and physical);

2. specify the amount of LEDC investment/ commitment requested;

3. specify the minimum and maximum amounts of non-LEDC capital to be raised if the LEDC makes the requested investment/commitment;

4. specify Applicant's projected timetable, with milestones for completion of the fund raising;

5. specify whether applicant anticipates taking in all of the committed capital investment at closing, or whether applicant plans a phase in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of capital raised;

6. marketCidentify the proposed market of the Applicant.

a. Describe and discuss the types of businesses that the BIDCO will finance. Discuss the extent to which the BIDCO intends to specialize in certain industries, or if special circumstances will be addressed.

b. Describe the size range of businesses that it is contemplated the BIDCO will finance, with a general indication of where most of the focus is expected.

c. Discuss the life cycle stage or stages of the companies which the BIDCO will likely finance, with an indication of where most of the focus is contemplated, i.e., start-up, expansion.

d. Discuss the geographic area in which the BIDCO plans to focus. Specify the city or parish in which the BIDCO's principal office will be located, and discuss intentions, if any, to establish any additional offices.

7. Management Assistance. Discuss the plans of the BIDCO to provide management and/or technical assistance to companies for which the BIDCO provides financing. Discuss the BIDCO's plans for monitoring its financing, and enforcing provisions of loan or investment agreements. Discuss how the BIDCO plans to handle problem loans and investments.

8. Idle Funds. Describe plans for the management of the idle funds of the BIDCO.

9. Realization of Returns By Investors. Discuss long term plans and strategies for providing a tangible return to the investors in the BIDCO including dividend policy, public markets, future mergers and acquisitions, sinking funds, etc.

10. Tax and Accounting Issues. Discuss relevant tax and accounting issues for the BIDCO.

11. Submit business and professional references for all stockholders, members of the Board and corporate officers.

12. Management Structure. Describe the proposed management structure for the BIDCO.

13. Describe the proposed responsibilities of each of the members of the management team. If any of these people will not be full time, describe their other activities.

14. Describe the responsibilities of any management position for which a person has not been identified.

15. Specify any other key people including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms. LEDC reserves the right to perform general and criminal background checks on these key people.

16. Identify all principal shareholders (i.e. owning directly or indirectly, or controlling directly or indirectly, 10 percent or more of the voting stock of the BIDCO), by name with specific ownership identified.

17. Financial Projections. Provide the following financial projections:

a. Returns-on-Average assets and Returns-on-Capital Performance projections, year by year, for a 10 year period. These projections should show summary cash flow, summary income and expense (including taxes), and summary balance sheet data. For these performance projections, operating income and expenses can be grouped by category. Emphasis must be placed on a specific exit strategies including provisions for a sinking fund to buy out LEDC's position. Specify the assumptions used for the performance projections.

b. Specify computer programs used for projections, if any, and specify formulas used.

F. A business plan which contains the following information shall be submitted for either a match investment or a co-investment request.

1. Provide a market analysis that the Applicant deems relevant.

2. Marketing Strategy. Describe the BIDCO's plans and approach to marketing its services, including methods of identifying potential applicants for financing assistance.

3. Screening Process and Evaluation Criteria - Discuss the anticipated number of business firms that will be reviewed for possible financing assistance, in comparison with the number that will actually be financed. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide financing assistance.

4. Financing. Describe and discuss the financing instruments that are intended to be used by the BIDCO (e.g. debt with capital features, royalty, capital, pure debt (with SBA or not), etc. Discuss the anticipated mix of the various types of financing instruments. Discuss the anticipated size range of loans/investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit from investments.

5. Specify applicant's start-up budget, including funds already expended and a detailed projected budget for completion of the fund raising. Specify the person or persons who will be working on the start-up phase, including how much of their time they will spend; how, if at all, they will be compensated; and their resumes and references. List applicant's seed investors, if any, with amount invested and number of shares of stock owned. Specify any additional amount of seed capital applicant is seeking, including a discussion of possible sources.

6. Describe and discuss the Applicant's fund raising strategy for raising the private capital.

7. Specify the principal investor sources that the Applicant will be targeting.

8. Attach all specific financing commitments already obtained, including documentation for each. This should include the evidence of the initial required capital.

9. Describe specific demonstrations of interest from private investor sources, including documentation where possible.

10. Capital Structure. LeverageCdiscuss the BIDCO's plans and prospects for leveraging its capital by borrowing money, use of the SBA guarantee secondary market, or other approaches. With respect to borrowing money, describe the degree of leverage the BIDCO will seek and over what time period? Identify sources of debt financing the Applicant plans to utilize. Describe how the Applicant plans to structure the debt. If use of the SBA program is contemplated, discuss Applicant's approach to this activity and analyze its potential profitability. If Applicant is relying heavily on the SBA guarantee program, describe its alternate course of action if the SBA guarantee program is eliminated or its effectiveness significantly curtailed.

11. Financial Projections. Provide the following financial projections:

a. Returns-on-Average assets and Returns-on-Capital Performance projections, year by year, for a 10 year period. These projections should show summary cash flow, summary income and expense (including taxes), and summary balance sheet data. For these performance projections, operating income and expenses can be grouped by category. Specify the assumptions used for the performance projections.

b. Specify computer programs used for projections, if any, and specify formulas used.

12. Fee Income. Discuss the potential for fee income, and any plans that the BIDCO might have for generating fee income.

13. Complementary and Affiliate Relationships. Discuss the nature of complementary or affiliate relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions. This discussion can be based on general types of institutions and should identify specific institutions where complementary or affiliate relationships have already been discussed or arranged.

G Application for a co-investment will contain the following information. The Applicant may provide other information which it believes relevant. LEDC may request further information beyond what is specified below.

1. The proposed amount, terms, and conditions of the investment.

2. A business and funding plan for the recipient completed in accordance with the standards outlined in LEDC program material for all other LEDC programs.

3. Identify all "principal shareholders" (i.e. owning directly or indirectly, or controlling directly or indirectly, 10 percent or more of the voting stock of the BIDCO), by name with specific ownership identified.

4. The recipient must have its primary operating activities located in Louisiana, and the application of the funding must result in meaningful economic impact to the area of Louisiana where its activities are conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997), LR 26:2244 (October 2000).

**§7107. Amount of Investment**

A. Co-Investment

1. If a non-specialty BIDCO can show cash of at least $1 MM but less than $2,000,000, LEDC may co-invest $1 for each $2 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed thirty-three percent of any project nor will LEDC funding exceed $1 for each $2 of the BIDCO's total capital. On each project submitted for review, an application fee of $250 is required.

2. If a specialty BIDCO can show cash of at least $500K plus enough operating capital to administer ongoing investments, but less than $1,000,000, LEDC may co-invest $1 for each $1 for each LEDC approved project submitted to it by the BIDCO. The LEDC investment will participate pro-rata with the BIDCO share of the investment. The LEDC investment will not exceed fifty percent of any project nor will LEDC funding exceed $1 for each $1 of other BIDCO capital committed.

3. On each project submitted for reviewed, an application fee of $250 is required.

B. Match Investment

1. Each request should be accompanied by a $500 application fee.

2. If a non-specialty BIDCO can show cash, of $2,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC subject to availability of funds and a determination by LEDC management that the BIDCO business plan is consistent with investment targets of LEDC. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of $1 for each $2 of the BIDCO capital not to exceed $2,500,000, reduced for any previous LEDC capital contributions. LEDC will base it's matching equity capital contribution on the amount of capital as calculated in accordance with 103 D. Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

3. If a specialty BIDCO can show capital contributions, as defined in Section 103, of $1,000,000, exclusive of any previous investments by LEDC, the BIDCO may request a matching equity capital contribution from LEDC. Each request should be accompanied by a $500 application fee. If the BIDCO is considered an acceptable risk, based upon LEDC review of its credentials, performance, and business plan, or some combination thereof, LEDC may make a matching cash contribution on the basis of $1 for each $1 of the BIDCO capital not to exceed $1,000,000 subject to availability of funds and a determination by LEDC management that the BIDCO business plan is consistent with investment targets of LEDC reduced for any previous LEDC capital contributions. LEDC will base it's matching equity capital contribution on the amount of non-LEDC capital as calculated in accordance with 103 D. Thereafter it will participate in all future BIDCO investments on a pro-rata basis with all other BIDCO funds. Any BIDCO which has received a LEDC match investment is ineligible to present portfolio projects to LEDC for assistance through any of LEDC's other programs.

4. All funding of BIDCOs is subject to the availability of resources as allocated by the LEDC Board of Directors.

5. The consolidated dollar total of all LEDC investments authorized under §109 A. through D. shall not exceed $2,500,000 to any one BIDCO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 18:1358 (December 1992), amended LR 26:2245 (October 2000).

### §7109. Terms of Investment

A. Founders stock and or investment given in exchange for services shall be subordinate to LEDC's investment unless LEDC determines that the pricing of such founders investment and or stock is commensurate with the services performed or risks taken, in comparison with the pricing of LEDC investment.

B. LEDC will have the right to appropriate representation on the board in the BIDCO. This may include but not be limited to board seat/seats; veto authority or supermajority requirements for key management and financial decisions; board visitation rights.

C. LEDC's stock may be repurchased by the BIDCO or, secondarily, by its private-capital stockholders at any time beginning with the end of the third year based on the then-current book value or market value, whichever is higher, subject to LEDC's concurrence on the valuation methodology. However, the BIDCO shall establish a sinking fund beginning in year three so that the LEDC investment is returned by the end of year ten.

D. LEDC may negotiate additional operating requirements with individual applicant BIDCOs on a case by case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC.

E. All agreements will be executed by duly authorized persons outlining the details of the transaction.

F. The LEDC's funding under its commitment will be made on a quarterly basis subject to verification of non-LEDC funds received by the BIDCO and availability of LEDC funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:554 (May 1997), LR 26:2246 (October 2000).

### §7111. Operating Requirements

A. During the period when LEDC owns an investment in a BIDCO, the BIDCO shall operate in accordance with the following parameters.

1. The BIDCO shall provide financing assistance to Qualified Louisiana Businesses or to firms who will become Qualified Louisiana Businesses as a result of the funding by the BIDCO. If the business firm has multi-state operations, the criterion that shall be used by the BIDCO is whether or not Louisiana is the state where the primary economic benefit of the financing transaction is likely to occur. The BIDCO shall refrain from purchasing corporate stocks or other capital positions unless such investments are part of the BIDCO's funding plan for the Qualified Louisiana Business entity.

2. The BIDCO shall maintain as its primary focus the markets which it identifies in its initial business plan. The BIDCO shall not engage in operations outside the State of Louisiana while LEDC is an investor.

3. The BIDCO shall invest in or lend to Qualified Louisiana Businesses an amount at least equal to the sum of LEDC's funds plus the matching private-capital funds. For examples:

a. if LEDC invests $2.5 million to match $5 million of private capital funds, the BIDCO shall invest in or lend to Qualified Louisiana Businesses a minimum of $7.5 million of its total portfolio exclusive of operating expenses and minimum capital reserve requirements as set out by the Office of Financial Institutions;

b. if LEDC invests $1 million to $2 million of private capital, the BIDCO shall invest/lend to Qualified Louisiana Businesses a minimum of $3 million of its total portfolio exclusive of operating expenses and minimum capital reserve requirements as set out by the Office of Financial Institutions.

4. Without the consent of LEDC, the BIDCO shall not apply to OFI to surrender its license, provided, however, that if LEDC is not a stockholder no consent of LEDC is

necessary. If LEDC grants its consent for such license-surrender application, the application shall state the commitment of the BIDCO to repurchase LEDC's stock at the time of license surrender for its then-current book value or market value, whichever is greater, or, if discounted pursuant to these rules, for the agreed-upon discounted price. If OFI requires surrender of license, the BIDCO must immediately notify LEDC to review the future plans of operation.

5. LEDC may negotiate additional operating requirements or material changes in the business plan with individual applicant BIDCOs on a case by case basis, as needed to safeguard the quality of LEDC's investment or to promote achievement of the objectives of the program or LEDC.

6. Reporting requirements shall include the following:

a. annual audited financial statements in accordance with GAAP, quarterly financial statements, and minutes of all regular and special board meetings;

b. timely advice of all management and board member changes with reasons for the changes and submission of new members' resumes showing experience and qualifications;

c. reports of activity including client businesses' names, addresses, employment levels before and after funding, and other information required for LEDC's annual legislative report;

d. the BIDCO shall provide LEDC with complete copies of OFI's annual audit report;

e. if the BIDCO is also a CAPCO, it must be in compliance with all CAPCO regulations;

f. the BIDCO's officers shall provide LEDC annual certification that BIDCO investments are consistent with their business plan and that they are in compliance with the Code of Governmental Ethics, R.S. 42:1112 et seq.

7. The failure of a BIDCO to comply with these operating requirements will constitute violation of the premise(s) on which LEDC relied in making its investment and will be just cause for LEDC to demand and require that its investment be immediately repurchased in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312 (A) (7), (B) (1) and (B) (3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:1357 (December 1992), amended LR 23:555 (May 1997), LR 26:2246 (October 2000).

Dennis Manshack
Executive Director

0010#052

## RULE

## Department of Economic Development
## Economic Development Corporation

Capital Access Program (LAC 19:VII.Chapter 72)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development, amends, in its entirety, Louisiana Administrative Code, Title 19, Corporations and Business; Part VII, Economic Development Corporation; Subpart 6, Louisiana Economic Development Corporation; Chapter 72, Capital Access Program.

**Title 19**
**CORPORATIONS AND BUSINESS**
**Part VII. Economic Development Corporation**
**Subpart 6. Louisiana Economic Development Corporation**

### Chapter 72. Capital Access Program

### §7201. Purpose

The Capital Access Program is designed to be a flexible and non-bureaucratic program to assist Louisiana financial institutions to make loans that carry a higher risk than conventional loans in a manner consistent with sound banking regulations. The purpose of the Capital Access Program is to increase the loan capital available to small business in Louisiana through a public/private loan portfolio insurance fund.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2247 (October 2000).

### §7203. Definitions

A. The following terms shall have the following definitions, unless the context otherwise requires.

*Agreement*Ca contract between a Financial Institution and the Louisiana Economic Development Corporation authorizing the Financial Institution to participate in the Program under the terms and conditions specified in the Agreement.

*Borrower*Ca Qualified Business that has received or been approved for a Qualified Loan from a Lender.

a. If the Lender is a banking institution, national bank, international institution or foreign institution a Borrower may not be an executive officer, director, or principal shareholder of the Lender, or a member of the immediate family of an executive officer, director or principal shareholder of the Lender or a related interest of any such executive officer, director, principal shareholder or member of the immediate family.

b. If the Lender is a federal credit union, a credit union or an out-of-state credit union doing business in Louisiana, a Borrower may not be an official, immediate family member of an official or any individual having a common ownership, investment or other pecuniary interest in a business enterprise with an official or with an immediate family member of an official. For the purposes of this subsection an *official* shall mean any member of the board of directors, credit committee or supervisory committee of the Lender and *immediate family member* shall mean his/her children, brothers, sisters, parents, spouse, and the parents of his/her spouse.

*Common Enterprise*Cany business with common or joint ownership.

*Enrolled Loan*Ca Qualified Loan enrolled in the Program.

*Fees*Ca non-refundable fee of no less than 2 percent and no more than 3 1/2 percent of the principal amount of the Qualified Loan charged by the Lender to the Borrower. The Lender shall pay a non-refundable fee equal to the fee paid by the Borrower. LEDC shall contribute a match to the fee equal to the contribution of the Lender, but not to exceed

$105,000 for a single Borrower and not to exceed 10 percent of a Lenders total Enrolled Loans.

*Financial Institution*Cany Louisiana commercial financial institution regulated by either the Louisiana Office of Financial Institutions, the Federal Depository Insurance Corporation, or the Federal Reserve.

*LEDC*Cthe Louisiana Economic Development Corporation.

*Lender*Ca Participating Financial Institution that has enrolled one or more Qualified Loans under the Program.

*Loss*Cany principal amount due and not paid, accrued interest due and not paid, and documented out of pocket collection expenses, at the time the Lender determines, in a manner consistent with its normal method and time table for making such determinations that a Qualified Loan is uncollectible and is to be charged off as a loss. The amount of principal and interest included in the Loss shall not exceed the principal amount of the Enrolled Loan, plus accrued and unpaid interest on such covered principal amount, from the date the Qualified Loan is made.

*Loss Reserve Account*Cseparate accounts held and maintained by the Participating Financial Institution and the Louisiana Economic Development Corporation (LEDC), to cover Losses sustained by the Participating Financial Institution on Enrolled Loans.

*Participating Financial Institution*Ca Financial Institution that has executed an Agreement with the Louisiana Economic Development Corporation to participate in the Program.

*Primary Economic Effect*Cthe majority of economic benefit resulting from a business activity occurs in Louisiana. It shall be conclusively presumed that the Primary Economic Effect is in Louisiana if the following conditions exists:

a. at least 51 per cent of the total jobs of the Qualified Business are created or retained in Louisiana; and

b. the Borrower's domicile and principal place of business is located in Louisiana.

*Program*C the Capital Access Program.

*Qualified Business*Ca Louisiana corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity, and a small business as defined by the SBA doing business for profit which is authorized to conduct business in the state.

*Qualified Loan*Ca loan, specified portion of a loan, the amount of a loan or additional loan in excess of a loan that is refinanced, or the maximum amount that may be drawn down against a line of credit (not to exceed five (5) years) and its interest rate does not exceed 3.5% above New York Prime , extended by a Lender to a Qualified Business, for any business activity which has its Primary Economic Effect in Louisiana. Excluded from the term are:

a. a loan for the construction or purchase of residential housing of any kind;

b. a loan for the purchase or construction of real property that is not used for the business operations of the Borrower, including real estate owned for the purpose of deriving income from speculation, trade, lease or rental;

c. a loan for the refinancing of the remaining principal balance of an existing loan;

d. unsecured loans.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2247 (October 2000).

### §7205. Authority To Implement Agreement

The Executive Director or the President, and the Secretary Treasurer of the Louisiana Economic Development Corporation are authorized to execute any document reasonably necessary or convenient to implement the Agreement.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2248 (October 2000).

### §7207. Program Registration Procedure

A. A Financial Institution wishing to participate in the Program will complete a program registration application on a form provided by LEDC. LEDC shall determine the Financial Institution's eligibility to participate in the Program from the information provided, or from such other information as LEDC may deem necessary.

B. A Financial Institution that is eligible to participate in the Program shall enter into an Agreement with the LEDC on a form provided by the LEDC.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2248 (October 2000).

### §7209. Agreement

A. The Agreement entered into by the Participating Financial Institution and the LEDC shall provide for:

1. a Loss Reserve Account by LEDC, owned by LEDC and for the benefit of the Participating Financial Institutions;

2. the creation of a Loss Reserve Account by the Participating Financial Institution with contributions from the Participating Financial Institution and the Borrower;

3. the liability of LEDC to the Participating Financial Institution is limited to the balance of the contributed amount in the LEDC Loss Reserve Account attributed to Enrolled Qualified Loans for the Participating Financial Institution;

4. the terms and conditions of Qualified Loans to be determined solely by agreement of the Lender and Borrower;

5. the enrollment of Qualified Loans in the Program;

6. the deposit of funds by the Borrower and the Lender into the Loss Reserve Account when the Lender makes a Qualified Loan to the Borrower;

7. the deposit of funds by LEDC into its Loss Reserve Account set up in LEDC for its match;

8. a deposit of $50,000 seed by LEDC into the LEDC Loss Reserve Account for each Participating Financial Institution which will be reimburse as loans are enrolled;

9. a claims process for reimbursement of Losses that have been incurred from defaults on Qualified Loans;

10. payment by the LEDC from its Loss Reserve Account to a Lender to reimburse it for any Loss;

11. disposition of any recoveries from a Borrower made by the Lender subsequent to being reimbursed for any Loss by LEDC;

12. conditions for subrogation of LEDC, at LEDC's request, to the rights of the Lender in collateral, personal

guarantees, and all other forms of security for the Qualified Loan;

13. conditions for decreases by LEDC of excess balances in the LEDC Loss Reserve Account;

14. termination by LEDC of the obligation to enroll Qualified Loans under the Program;

15. conditions for termination of the Agreement, and disposition by the lender and LEDC of any remaining balance in the Loss Reserve Accounts;

16. withdrawal by a Lender from the Program, and disposition by the lender and LEDC of any remaining balance in the Loss Reserve Accounts;

17. periodic reporting to LEDC by the Lender as required;

18. inspection by LEDC of the pertinent files of the Lender relating to Enrolled Loans;

19. transmittal to LEDC by the applicable state or federal regulatory body of the Lender of any public information directly relating to the Lenders participation in Program;

20. such other terms and conditions as LEDC may require.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2248 (October 2000).

**§7211. Establishing a Loss Reserve Account**

A. Upon the execution of the Agreement with the Participating Financial Institution, the Lender shall establish a Loss Reserve Account to receive all fees from the Borrower and the Lender. The lender's Loss Reserve Account shall be domiciled with a financial Institution in the form of an insured, interest-baring deposit in accordance with statutory requirements.

B. LEDC's Loss Reserve Account will be established as an account controlled by LEDC.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

**§7213. Ownership, Control, Investment of Loss Reserve Account**

A. All moneys in a Loss Reserve Account held at and by the bank are to be used exclusively for this program by the bank. The LEDC may withdraw funds from a Loss Reserve Account only as provided for in these Rules.

B. Any earnings on the balance in a Loss Reserve Account are deemed to be part of the Loss Reserve Account up to 10 percent above the present maximum portfolio exposure.

C. The LEDC may withdraw at any time and for use as deemed appropriate by the LEDC a maximum of 100 percent of all earnings that have been credited to the Loss Reserve Account over the present portfolio exposure, with such withdrawal limited to a maximum of 100 percent of earnings credited to the Loss Reserve Account since the last such withdrawal.

D. Should the bank opt to terminate the program, LEDC will be entitled to and claim ownership of all funds in the Loss Reserve Account held by the bank. However, any enrolled loans which are still outstanding at the time of termination will be covered by the Loss Reserve Account.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

**§7215. Loan Loss Contributions**

When making an Enrolled Loan, the Lender shall charge the Borrower no less than 2 percent and no more than 3.5 percent of the loan amount for their contribution to the Loan Loss Fund and the Lender shall match the contribution with a like percentage. The bank shall deposit the contributions in the Loan Loss Fund at closing. LEDC will contribute the same percentage of the loan amount as the bank at the time it is notified of the enrollment of the loan.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

**§7217. Procedure for Enrollment of a Qualified Loan**

A. A Lender shall enroll a Qualified Loan under the Program:

1. by notifying LEDC in writing, on a form prescribed by LEDC and within ten (10) days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Lender makes a Qualified Loan is the earlier of the date on which the Lender first disburses proceeds of the Qualified Loan to the Borrower, or the date on which the loan documents have been executed and the Lender has obligated itself to disburse proceeds of the loan; and

2. by transmitting to LEDC a deposit receipt of the contributions collected from the Lender and the Borrower in connection with the Qualified Loan.

B. LEDC shall, upon receipt of documentation from the Lender, enroll the Qualified Loan if LEDC is satisfied that the Qualified Loan is eligible. LEDC shall notify the Lender of enrollment within ten business days from receipt of documentation, in such form as will be determined by LEDC.

C. When the requirements of a Qualified Loan are met, LEDC shall also transfer funds to the LEDC Loss Reserve Account an amount equal to the banks contributed percentage of the enrolled loan amount but not to exceed $105,000 for a single Borrower and not to exceed 10 percent of a Lenders total Enrolled Loans.

D. Prior to making a loan a Lender may request that LEDC certify that the proposed loan is an eligible loan. The lender must submit all information required in A above with such request. LEDC will certify within 10 days of receipt of the request that the loan is eligible or is not eligible. Such certification shall be binding for 30 days if no change in a material representation has occurred.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

**§7219. Procedure for Making Claim for Reimbursement of Loss**

A. At the time a Lender charges off all or part of an Enrolled Loan as a result of a default by the Borrower, the Lender may make a claim for reimbursement for all or part of the Loss incurred by notifying LEDC of the claim in writing on a form provided by LEDC within three calendar months of the date a loss has occurred with respect to the Enrolled Loan.

B. A Lender may make a claim for reimbursement of a Loss prior to the liquidation of collateral, or to realization on personal or their financial guarantees or from other sources, subject however to the provision in §123 on Recoveries on Loans Subsequent to Payment of Claims.

C. The Lender shall retain documentation in its files substantiating all claims.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2249 (October 2000).

### §7221. Payment of Claims by LEDC

A. LEDC shall pay Loss claims as submitted, except LEDC may reject a claim when the representations and warranties provided by the Lender at the time of enrolling the Qualified Loan were false.

B. Lender shall send evidence that a withdrawal of an amount equal to 66.66 percent of the loan loss has been made from the lenders Loss Reserve Account with the payment request from LEDC.

C. LEDC shall pay Loss claims in the order it receives them. If two or more Loss claims are filed simultaneously by the Lender and there are insufficient funds in the Loss reserve Account to pay them, the Lender may designate the order the Loss claims are paid by LEDC.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

### §7223. Recoveries on Loans Subsequent to Payment of Claim

If subsequent to the payment of a Loss claim by LEDC the Lender recovers from the Borrower, from liquidation of collateral or from any other source, any amount for which Lender was reimbursed by LEDC, the Lender shall promptly pay to LEDC its 33.33 percent of the amount received that in aggregate exceeds the amount needed to fully cover the Lender's Loss on the Enrolled Loan, for deposit in the Loss Reserve Account.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

### §7225. Available Collateral, Guarantees and Other Security not Realized

After LEDC has paid a Loss claim to the Lender from the Loss Reserve Account, and the Lender has terminated its lending relationship with the Borrower, the Lender shall, at LEDC's request, provide LEDC with details and copies of any collateral, guarantee, or other security documents which secured the Qualified Loan and which remain available.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

### §7227. Subrogation

A. At LEDC's request, LEDC will be subrogated to the rights of the Lender in collateral, personal guarantees, and all other forms of security for the Qualified Loan that have not been realized upon by the Lender, when the Lender's Loss has been fully or partially covered by payment of a Loss claim, or by a combination of payment of a Loss claim and recovery from the Borrower, liquidation of collateral, or from other sources, and the Lender has stated to LEDC that it will not take action to realize on remaining available sources of collateral or other security for recovery.

B. At the time of subrogating its rights, the Lender shall provide LEDC with all original security agreements, any documents evidencing title to real property, certificates of title, guarantees, and any other documents representing security for the Qualified Loan, duly recorded and perfected, and accompanied by enforceable assignments and conveyances to LEDC.

C. If the lender chooses not to institute proceedings and/or recover from the borrower, through the liquidation of collateral or from any other source and was reimbursed by LEDC, then LEDC will have the authority to do so and retain any and all funds recovered.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

### §7229. Reporting

A. The Lender shall provide LEDC with a monthly statement providing details of the balance and the payment and receipts activity in the Loss Reserve Account for the prior month.

B. To assist LEDC in determining the progress of the program and in identifying excesses in Loss Reserve Accounts, the Lender shall on or before February 15, May 15, August 15, and November 15 of each year file a report with LEDC indication the number and aggregate outstanding balance of all Enrolled Loans as of the previous December 31 in the case of the report due February 15, as of the previous March 31 in the case of the report due May 15, as of the previous June 30 in the case of the report due August 15, and as of the previous September 30 in the case of the report due November 15. In computing the aggregate outstanding balance of all Enrolled Loans, the balance of any Enrolled Loan shall in no event be considered to be greater than the covered amount of the Enrolled Loan.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

### §7231. Withdrawal of Excess Deposits in Loss Reserve Accounts

LEDC may withdraw any excess deposits in its Loss Reserve Account if the balances in a Loss Reserve Account have exceeded the aggregate outstanding balances of Enrolled Loans continuously for a period of six calendar months. LEDC may withdraw the excess of the balance of the Loss Reserve Account over the total balance of Enrolled Loans on the last day of the sixth calendar month of such excesses, and on the last day of each calendar quarter thereafter, so long as an excess continues to exist.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

### §7233. Termination of and Withdrawal from Program

A. LEDC may terminate its obligation to enroll Qualified Loans under the Program for a Lender on the date specified in LEDC's notice of termination to the Lender, or for all participating Lenders under the Program upon 90 days notice, or such earlier date should the balance in LEDC's

available budget reach zero, or should LEDC anticipate that the balance in the available budget will reach zero. Termination shall not apply to any Qualified Loans made before the date of termination.

B. Should the balance of a Lender=s Loss Reserve Account be reduced to zero, LEDC may, at its sole discretion, terminate the Agreement.

C. A Participating Financial Institution may withdraw from the Program after giving written notice to LEDC. After receipt of this notice, LEDC shall, at its sole discretion, determine the disposition of any remaining balance in the Loss Reserve Account.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2250 (October 2000).

**§7235. Inspection of Files**

LEDC may inspect the files of the Lender relating to the Enrolled Loans at any time during normal business hours.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2251 (October 2000).

**§7237. Reports Of Regulatory Agencies**

LEDC may apply to the applicable state or federal regulatory body of the Lender for information directly related to the Lender's participation in the program. LEDC shall, to the extent permitted by law, hold any information acquired from regulators in confidence.

AUTHORITY NOTE: R.S. 51:2312 (A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2251 (October 2000).

Dennis Manshack
Executive Director

0010#051

**RULE**

**Department of Economic Development**
**Economic Development Corporation**

Seed Capital Program (LAC 19:VII.Chapter 77)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Department of Economic Development, intends to promulgate revisions, in its entirety, *Louisiana Administrative Code*, Title 19, Corporations and Business; Part VII, Economic Development Corporation; Subpart 11, Economic Development Corporation; Chapter 77, Seed Capital Program.

**Title 19**
**CORPORATIONS AND BUSINESS**
**Part VII. Economic Development Corporation**
**Subpart 11. Louisiana Seed Capital Program**
**Chapter 77. Seed Capital Program**

**§7701. Purpose**

The purpose of this program is to encourage the formation of Louisiana-based seed capital funds. Funding under this program shall be limited to those qualified organizations who agree to invest such funds exclusively in companies based in Louisiana for the purpose of financing any process, technique, product, or device which is or may be exploitable commercially, which has advanced beyond the theoretical state, and which is capable of being or has been reduced to practice without regard to whether a patent has or could be granted. Not intended for retail or professional services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2251 (October 2000).

**§7703. Definitions**

A. For the purposes of this program Seed Capital will be defined as:

1. an amount no less than $25,000 of capital provided to an inventor or entrepreneur to prove a concept and to qualify for start-up capital. This may involve product development and market research as well as building a management team and developing a business plan, if the initial steps are successful;

2. research and development financing to finance product development for start-up as well as more mature companies;

3. start-up financing to companies completing product development and initial marketing. Companies may be in the process of organizing or they may already be in business for one year or less, but have sold their product commercially;

4. first-stage financing to companies that have expended their initial capital and require funds to initiate full-scale manufacturing and sales.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2251 (October 2000).

**§7705. Eligibility**

A. Applicant organization must be a Louisiana-based fund organized for the sole purpose of making seed investments in businesses.

B. Must be organized for profit.

C. The applicant must demonstrate that its management personnel have at least three years of experience in managing investments in individual, privately-held companies, utilizing funds provided by others to make said investments.

D. Have raised a minimum of $250,000 to be eligible for co-investments or raised a minimum of $500,000 to be eligible for a match investment. The minimum funds may be in cash and commitments.

E. A minimum cash investment sufficient to cover the general and administrative costs for the first year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2251 (October 2000).

**§7707. Application for Co-Investment**

A. Prior to a Seed Capital Fund submitting a request to be considered for co-investment by LEDC the Seed Capital Fund must submit an application for the Fund to be considered qualified. The application for qualification to the Economic Development Corporation shall consist of detailed information covering two main categories:

1. experience and qualifications of the proposed management team; and

2. the business plan for the Seed Capital Fund. The following sections specify in more detail the information that should be covered. While these sections provide a possible format, the applicant should in no way feel bound by this format. The applicant can use its own format, as long as the basic information is provided. Moreover, the applicant should feel free to provide additional information which is viewed as relevant. The Economic Development Corporation may request additional information beyond what is specified below.

B. The completed application will be submitted to the next scheduled Screening Committee meeting for recommendations. The recommendations of the Screening Committee will be submitted to the full Board of Directors at their next scheduled meeting for final approval.

C. Experience and Qualifications

1. Submit resumes, references, and personal financial statements for all principal members of the management team that are identified.

Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on the principal members of management.

2. Describe the responsibilities of each of the principal members of the management team that have been identified. If any of these people are not full time, describe their other activities.

3. Describe the responsibilities of any principal management position for which a person has not been identified.

4. Specify any directors that have been identified, and submit resumes.

5. Specify any other key people that have been identified, including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms.

Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on these key people.

D. Business Plan

1. Market

a. Describe and discuss the types of businesses that the Seed Capital Fund will finance. Discuss the extent to which the Seed Capital Fund intends to specialize in certain industries, or whether a more broad based approach is planned.

b. Describe the size range of businesses that it is contemplated the Seed Capital Fund will finance, with a general indication of where most of the focus is expected.

c. Discuss the life cycle stage or stages of the companies which the Seed Capital Fund will likely finance, with an indication of where most of the focus is contemplated.

d. Discuss the geographic area in which the Seed Capital Fund plans to focus. Specify the city or parish in which the Seed Capital Fund's principal office is planned to be located, and discuss intentions, if any, to establish any additional offices.

e. Provide any market analysis that you deem relevant.

2. Financing. Describe and discuss the financing instruments that are intended to be used by the Seed Capital Fund. Discuss the anticipated mix of the various types of financing instruments. Discuss the anticipated size range of investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit from investments.

3. Marketing Strategy - Describe the Seed Capital Fund's plans and approach to marketing its services, including the identification of potential applicants for financing assistance.

4. Screening Process and Evaluation Criteria. Discuss the anticipated number of business firms that will be reviewed for possible investment, in comparison with the number that will actually be invested in. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide investment.

5. Fee Income. Discuss the potential for fee income, and any plans that the Seed Capital Fund might have for generating fee income.

6. Management Assistance. Discuss the plans of the Seed Capital Fund to provide management and/or technical assistance to companies for which the Seed Capital Fund provides investment. Discuss the Seed Capital Fund's plans for monitoring its investments, and enforcing provisions of investment agreements. Discuss how the Seed Capital Fund plans to handle problem investments. Discuss the Seed Capital Fund's plans to provide management assistance to companies that the Seed Capital Fund is not investing in.

7. Complementary Relationships. Discuss the nature of complementary relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions. This discussion can be based on general types of institutions and/or can identify specific institutions where complementary relationships have already been discussed.

8. Management Structure. Describe the proposed management structure for the Seed Capital Fund, and anticipated compensation for principal members of the management team.

9. Idle Funds. Describe plans for the management of the idle funds of the Seed Capital Fund.

10. Tax and Accounting Issues. Discuss relevant tax and accounting issues for the Seed Capital Fund.

12. Financial Projections

a. Provide a detailed operating budget for the first three years of the Seed Capital Fund's operation. The first year shall be month by month. The second and third years may be presented on an annual basis.

b. Provide performance projections, year by year, for a 5 year period. These projections should show cash flow, income and expense (including taxes), and balance sheet data. For these performance projections, operating expenses can be consolidated into one line item.

c. Specify the assumptions used for the performance projections. It is permissible to submit several sets of performance projections based on differing assumptions. However, if applicant submits several sets of projections based on differing assumptions, specify which set of assumptions are applicant's primary assumptions.

d. Specify computer programs used for projections, and specify formulas used.

E. The application for the co-investment project shall contain but not be limited to the identical information

provided to the eligible Seed Capital Fund requesting the co-investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26: 2251 (October 2000).

### §7709. Application Requirements for Match Investment

A. To apply to the Economic Development Corporation for a commitment to invest, a prospective Seed Capital Fund shall submit detailed information covering three main categories:

1. fund raising;
2. experience and qualifications of the proposed management team; and
3. the business plan for the Seed Capital Fund. The following sections specify in more detail the information that should be covered. While these sections provide a possible format, the applicant should in no way feel bound by this format. The applicant can use its own format, as long as the basic information is provided. Moreover, the applicant should feel free to provide additional information which is viewed as relevant. The Louisiana Economic Development Corporation may request additional information beyond what is specified below.

B. All completed applications will be acted on by the requisite loan committee of the Louisiana Economic Development Corporation.

C. Fund Raising

1. Specify the amount of LEDC commitment sought.
2. Provide evidence of the amount of private capital that has been raised. Specify the ratio of actual cash to commitments raised.
3. Describe the basic legal structure of the Seed Capital Fund.
4. Describe and discuss the applicant's fund raising strategy for raising of any additional private capital.
5. Specify the principal investor sources that the applicant will be targeting.
6. What is applicant's basic proposal to prospective private investors. What expectations and objectives are the applicant specifying. This includes, for example, representations regarding reasonably expected returns on private equity investment, indirect financial benefits, if any, and social purposes, if applicable.
7. List all specific investors and financing commitments already obtained, including documentation for each. This should include the evidence of the initial $500,000 required capital.
8. Specify whether applicant anticipates taking in all of the LEDC equity investment at closing, or whether applicant plans a phase in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of equity capital raised.

D. Experience and Qualifications

1. Submit resumes, references, and personal financial statements for all principal members of the management team that are identified.

   Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on the principal members of management.

2. Describe the responsibilities of each of the principal members of the management team that have been identified. If any of these people are not full time, describe their other activities.
3. Describe the responsibilities of any principal management position for which a person has not been identified.
4. Specify any directors that have been identified, and submit resumes.
5. Specify any other key people that have been identified, including any advisors, consultants, attorneys and accountants, and submit resumes and/or descriptions of firms.

   Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on these key people.

E. Business Plan

1. Market

   a. Describe and discuss the types of businesses that the Seed Capital Fund will finance. Discuss the extent to which the Seed Capital Fund intends to specialize in certain industries, or whether a more broad based approach is planned.

   b. Describe the size range of businesses that it is contemplated the Seed Capital Fund will finance, with a general indication of where most of the focus is expected.

   c. Discuss the life cycle stage or stages of the companies which the Seed Capital Fund will likely finance, with an indication of where most of the focus is contemplated.

   d. Discuss the geographic area in which the Seed Capital Fund plans to focus. Specify the city or parish in which the Seed Capital Fund's principal office is planned to be located, and discuss intentions, if any, to establish any additional offices.

   e. Provide any market analysis that you deem relevant.

2. Financing. Describe and discuss the financing instruments that are intended to be used by the Seed Capital Fund. Discuss the anticipated mix of the various types of financing instruments. Discuss the anticipated size range of investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit from investments.
3. Marketing Strategy. Describe the Seed Capital Fund's plans and approach to marketing its services, including the identification of potential applicants for financing assistance.
4. Screening Process and Evaluation Criteria. Discuss the anticipated number of business firms that will be reviewed for possible investment, in comparison with the number that will actually be invested in. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide investment.
5. Fee Income. Discuss the potential for fee income, and any plans that the Seed Capital Fund might have for generating fee income.
6. Management Assistance. Discuss the plans of the Seed Capital Fund to provide management and/or technical assistance to companies for which the Seed Capital Fund provides investment. Discuss the Seed Capital Fund's plans for monitoring its investments, and enforcing provisions of

investment agreements. Discuss how the Seed Capital Fund plans to handle problem investments. Discuss the Seed Capital Fund's plans to provide management assistance to companies that the Seed Capital Fund is not investing in.

7. Complementary Relationships. Discuss the nature of complementary relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions. This discussion can be based on general types of institutions and/or can identify specific institutions where complementary relationships have already been discussed.

8. Management Structure. Describe the proposed management structure for the Seed Capital Fund, and anticipated compensation for principal members of the management team.

9. Idle Funds. Describe plans for the management of the idle funds of the Seed Capital Fund.

10. Tax and Accounting Issues . Discuss relevant tax and accounting issues for the Seed Capital Fund.

11. Financial Projections

a. Provide a detailed operating budget for the first three years of the Seed Capital Fund's operation. The first year shall be month by month. The second and third years may be presented on an annual basis.

b. Provide performance projections, year by year, for a 5 year period. These projections should show cash flow, income and expense (including taxes), and balance sheet data. For these performance projections, operating expenses can be consolidated into one line item.

c. Specify the assumptions used for the performance projections. It is permissible to submit several sets of performance projections based on differing assumptions. However, if applicant submits several sets of projections based on differing assumptions, specify which set of assumptions are applicant's primary assumptions.

d. Specify computer programs used for projections, and specify formulas used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2253 (October 2000).

### §7711. Application Process

A. Applications for funding under this program must be submitted to the Executive Director, Economic Development Corporation, P.O. Box 44153, Baton Rouge, 70804.

1. Co-Investment Application

a. The application for eligibility of the Seed Capital Fund and the co-investment project may be submitted simultaneously for consideration.

b. Once a Seed Capital Fund is deemed eligible, the Fund is not required to resubmit an eligibility application for subsequent co-investment requests.

2. All completed applications will be acted on by the requisite loan committee of the Economic Development Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26: 2254 (October 2000).

### §7713. Investment

A. Co-Investment

1. An eligible fund that has not received a match investment from the Economic Development Corporation may apply for Co-Investment funds on a case by case basis. The co-investment of Economic Development Corporation shall not exceed the lesser of 50 percent of the total round of investment needed or $250,000.

2. Only investments in Louisiana businesses are eligible for co-investments.

3. Co-Investments will be on the same terms and conditions as the seed capital fund has negotiated with the business.

B. Match Investment

1. An eligible fund may receive a match investment equal to $1.00 of LEDC funds for each $2.00 of privately raised funds. The maximum LEDC investment shall not to exceed $1,000,000.

2. An eligible fund shall be a Louisiana organized and based Seed Capital Fund. For purposes of this program, "organized and based" means the seed capital applicant is registered with the Secretary of State's office and that it maintains a staffed office in Louisiana where investments may be initiated and closed.

3. The method of investment will be equal to the method of the other investors i.e. committed capital for committed capital; cash investment for cash investment, or cash and commitment for cash and commitment.

4. The terms of the investment will be negotiated on a case by case basis.

C. Closing

1. Prior to disbursement of funds, the secretary-treasurer and one of the following; president, chairman or executive director of the corporation, shall execute all necessary legal instruments after certification by counsel that all legal requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26:2254 (October 2000).

### §7715. Reporting

A. Each year, on the anniversary date of the initial disbursement of funds, or on such date as may be authorized by the corporation, each recipient of funds shall provide the following:

1. list of all investors in the fund, including the amounts of investment and nature of the investment;

2. a statement of financial condition of the fund including, but not limited to, a balance sheet, profit and loss statement and changes in financial condition;

3. current reconciliation of the fund's net worth;

4. annual audited financial statement prepared by a certified public accountant (prepared within 120 days of the end of the fund's fiscal year).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 26: 2254 (October 2000).

Dennis Manshack
Executive Director

0010#049

## RULE

**Department of Economic Development**
**Economic Development Corporation**

Small Business Loan Program
(LAC 19:VII.Chapter 1)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, amends *Louisiana Administrative Code*, Title 19, Corporations and Business; Part VII, Economic Development Corporation; Subpart 1, Louisiana Economic Development Corporation; Chapter 1, Louisiana Small Business Loan Program.

**Title 19**
**CORPORATIONS AND BUSINESS**
**Part VII. Economic Development Corporation**
**Subpart 1. Louisiana Small Business Loan Program**

### Chapter 1. Loan Policies

#### §101. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana, as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The Corporation will consider sound loans so long as resources permit. The Board of the Corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), amended LR 26:2255 (October 2000).

#### §103. Definitions

*Disabled Person's Business Enterprise*Ca small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans With Disabilities Act of 1990.

*Economically Disadvantaged Business*Ca Louisiana business certified as economically disadvantaged by the Department of Economic Development's Division of Economically Disadvantaged Business Development.

*Small Business Concern*Cdefined by SBA for purposes of size eligibility as set forth by 13 CFR121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:456 (June 1989), amended LR 26:2255 (October 2000).

#### §105. Application Process

A. Any applicant(s) applying for either a loan guaranty or a loan participation will be required first to contact a financial lending institution that is willing to entertain such a loan with the prospect of a guaranty or a participation the bank will then contact LEDC for qualification and submit a complete application.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, La. R.S. 44:1 se seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form to LEDC.

2. Economically disadvantaged businesses applying for assistance under that provision will have to submit certification from the Division of Economically Disadvantaged Business Development of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the Disabled Person's provision shall submit adequate information to support the disabled status.

4. The lending institution will submit to LEDC its complete analysis, proposed structure, and commitment letter. LEDC staff may do analysis, independent of the lending institution's analysis.

5. The lending institution will submit to LEDC the same pertinent data that it did to the lending institution's loan committee, whatever pertinent data the lending institution can legally supply.

6. LEDC staff will review the application and analysis, then make recommendations. The staff will work with the lending institution on terms of the loan and LEDC loan stipulations.

7. The LEDC's Board Screening Committee or designated loan committee will review only the completed applications submitted by staff and will make recommendations to the board.

8. The applicant(s) or their designated representative, and the loan officer or a representative of the lending institution are not require to attend the Screening Committee meeting.

9. LEDC's Board of Directors or designated loan committee has the final approval authority for applications.

10. The applicant will be notified within five working days by mail of the outcome of the application.

11. A LEDC commitment letter will be mailed to the bank within five working days of approval by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department Economic Development, Economic Development Corporation, LR 15:446 (June 1989), amended LR 26:2255 (October 2000).

#### §107. Eligibility

A. Small business concerns domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana.

B. Certified economically disadvantaged businesses.

C. Disabled person's business enterprises domiciled in Louisiana whose owner(s) or principal stockholder(s) shall be a resident of Louisiana.

D. Funding requests for all but the following may be considered:

1. restaurants, except for regional or national franchises;

2. bars;

3. any project established for the principal purpose of dispensing alcoholic beverages;

4. any establishment which has gaming or gambling as its principal business;

5. any establishment which has consumer or commercial financing as its business;

6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;

7. funding for the principal purpose of refinancing existing debt;

8. funding for the purpose of buying out any stockholder or equity holder by another stockholder or equity holder in a business;

9. funding for the purpose of establishing a park, theme park, amusement park, or camping facility.

10. funding for the purpose of buying out any family member or reimbursing any family member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:447 (June 1989), amended LR 26:2255 (October 2000).

**§109. General Loan Provisions**

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans.

1. The Corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, including state or federal taxes, or bankruptcy proceeding; nor shall the Corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit. Further, the Corporation shall not approve any loan or guarantee if the applicant or principle management have a criminal record.

2. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the Corporation Board shall not be amended or altered by any member of the Board or employee of the Department of Economic Development except by subsequent vote of approval by the Board or designated loan committee at the next meeting of the Board in open session with full explanation for such action.

3. The Corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees, the interest rate is to be negotiated between the borrower and the bank but may not exceed two and one half percent above New York prime as published in the Wall Street Journal at either a fixed or variable rate.

2. On all participation loans, the rate shall be determined by utilizing the rate for a U.S. Government Treasury security for the time period that coincides with the term of the participation and adding between one and two and a half percentage points.

3. The bank may apply for a linked deposit under the Small Business Linked Deposit Program on the term portion of either a guaranteed loan or a participated loan.

C. Collateral

1. Collateral-to-loan ratio will be no less than one-to-one.

2. Collateral position may be negotiated, but will be no less than a sole second position.

3. Collateral value determination.

a. the appraiser must be certified by recognized organization in area of collateral;

b. the appraisal cannot be over 90 days old.

4. Acceptable collateral may include, but not be limited to, the following:

a. fixed assets—business real estate, buildings, fixtures;

b. equipment, machinery, inventory;

c. personal guarantees may be used only as additional collateral and does not count towards the 1:1 coverage; if used, there must be signed and dated Personal Financial Statements;

d. accounts receivable with supporting aging schedule. Not to exceed 90 percent of receivable value (used with guarantee only).

5. Unacceptable collateral may include, but not be limited to the following:

a. stock in applicant company and/or related companies;

b. personal items or personal real estate;

c. intangibles.

D. Equity

1. Will be 20 percent of the loan amount for a start-up operation or acquisition and no less than 15 percent for an expansion. However, if 20 percent is not available for a guarantee the following chart may be applied which provides for an annual guarantee fee attached to a lesser equity position:

| Equity % | Guarantee Fee |
|---|---|
| 19% | 2.20% |
| 18% | 2.40% |
| 17% | 2.60% |
| 16% | 2.80% |
| 15% | 3.00% |
| 14% | 3.20% |
| 13% | 3.40% |
| 12% | 3.60% |
| 11% | 3.80% |
| 10% | 4.00% |

*In no case shall the equity position be less than 10%.

2. Equity is defined to be:

a. cash;

b. paid-in capital;

c. paid-in surplus and retained earnings;

d. partnership capital and retained earnings.

3. No research, development expense nor intangibles of any kind will be considered equity.

E. Amount

1. For small businesses, the Corporation's guarantee shall be:

a. no greater than 75 percent of a loan up to $650,000; or

b. no greater than 70 percent of a loan up to $1,100,000; or

c. no greater than 65 percent of a loan up to $2,300,000;

d. if the loan request exceeds $2,300,000 the guaranty shall not exceed $1,500,000.

2. For certified economically disadvantaged businesses, or disabled person's business enterprises, the Corporation's guarantee shall be:

a. no greater than 90 percent of a loan up to $560,000; or

b. no greater than 85 percent of a loan up to $875,000; or

c. no greater than 75 percent of a loan up to $2,000,000;

d. if the loan request exceeds $2,000,000, the guaranty shall not exceed $1,500,000.

3. For small businesses, the Corporation's participation shall be no greater than 40 percent, but in no case shall it exceed $1,500,000.

4. For certified economically disadvantaged businesses, or disabled person's business enterprises, the Corporation's participation shall be no greater than 50 percent, but in no case shall it exceed $1,000,000.

F. Terms

1. Terms may be negotiated with the bank, but in no case shall the terms exceed 20 years.

G Fees

1. LEDC will charge a guaranty fee on the guaranteed amount up to a maximum amount of four percent.

2. LEDC will charge a $100 application fee.

3. LEDC will share in a pro-rata position in any fees assessed by the bank on a participation.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 25 percent of total loan with the following exception:

i. a maximum of 35 percent may be considered on a guaranteed loan but the guarantee percent will be decreased by 5 percent; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

5. Funds may not be used to buy out stockholders or equity holders of any kind, by any other stockholder or equity holder.

6. Funds may not be used to purchase any speculative investment or real estate development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 26:2256 (October 2000).

### §111. General Agreement Provisions

A. Guaranty Agreement

1. The bank is responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank will sell collateral and handle the legal proceedings.

4. There will be a reduction of the guarantee:

a. in proportion to the principal reduction of the amortized portion of the loan;

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

5. The guarantee will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guarantee agreement.

B. Participation Agreement

1. The bank is responsible for administration and monitoring of the loan.

2. The lead bank will hold no less participation in the loan than that equal to LEDC's, but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

4. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

5. The bank is able to set its rate according to risk, and may blend its rate with the LEDC rate to yield a lower overall rate to a project.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the Corporation in writing and verbally in a time satisfactory to the bank and the Corporation.

C. Borrower Agreement

1. At the discretion of LEDC, the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

2. The borrower shall provide initial proof as well as an annual report of job creation, including the number of jobs, job titles and salaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 26:2257 (October 2000).

### §113. Confidentiality

Confidential information in the files of the Corporation and its accounts acquired in the course of duty is to be used solely for the Corporation. The Corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion #82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), amended LR 26:2257 (October 2000).

### §115. Conflict of Interest

No member of the Corporation, employee thereof, or employee of the Department of Economic Development, members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the Corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section, the same shall be null and void and no action shall be maintained thereon against the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:449 (June 1989), amended LR 26:2258 (October 2000).

Dennis Manshack
Executive Director

0010#050

## RULE

## Economic Development
## Office of Financial Institutions

Additional Fees and Charges
(LAC 10:XI.701)

Editor's Note: This rule is being repromulgated to correct citation errors. The original rule may be viewed on pages 1991-1992 of the September 20, 2000 *Louisiana Register*.

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq, and in accordance with R.S. 9:3517(c) of the Louisiana Consumer Credit Law, R.S. 9:3510 et seq., the commissioner of financial institutions hereby promulgates the following rule to provide for the approval of additional fees and charges not inconsistent with the Louisiana Consumer Credit Law, ("LCCL").

**Title 10**
**FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC**
**Part XI. Consumer Credit**

### Chapter 9. Additional Fees and Charges

### §901. Definitions

*Additional Fees and Charges*C those fees and charges which are not specifically authorized by the LCCL but, as determined by the Commissioner, are considered not to be inconsistent with the provisions thereof.

*Creditor*C a person who is a licensed lender as defined in R.S. 9:3516(22).

*Petition*C a written request of a creditor, in the form of a letter, directed to the Commissioner seeking approval of an additional fee or charge and shall include an explanation as to which service or services will be provided and why a creditor believes a certain fee or charge is warranted for such service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:1991 (September 2000), repromulgated LR 26:2258 (October 2000).

### §903. Procedure for Requesting Approval of an Additional Fee or Charge

A. A creditor extending credit under the LCCL shall petition the Commissioner for authority to assess an additional fee or charge which is not inconsistent with the provisions thereof.

B. A petition shall include an explanation as to why a creditor believes the fee or charge is warranted, as well as a showing that such fee or charge is not inconsistent with the provisions of the LCCL. The creditor shall also include documentation supporting its request.

C. The Commissioner may publish the creditor's request, in a form prescribed by him, in the Potpourri section of the next *Louisiana Register*, to solicit public comments.

D. After considering the request and any public comments received, the Commissioner may approve the proposed fee or charge, as long as it is not inconsistent with the provisions of the LCCL, and it complies with the requirements established by policy promulgated by the Commissioner.

E. A current list of all fees and charges which have been approved or disapproved by the Commissioner shall be maintained on the OFI website and made available upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:1992 (September 2000), repromulgated 26:2258 (October 2000).

### §905. Procedure for Consumers of Financial Services to Comment on Petitioner's Request for Approval of Additional Fees and Charges

A. When a creditor petitions the Commissioner to request approval of an additional fee or charge in accordance with this Rule, a notice may be published in the *Louisiana Register* that such petition has been received by the Commissioner. The notice shall apprise the public that a formal request for an additional fee or charge has been made and that the Commissioner will consider the merits of the request and make a decision regarding its approval within a time to be stated in the notice. Any interested person, shall have the opportunity to submit written comments, observations, or objections to the request. The comments, observations, or objections shall bear a postmark of not later than 15 days after publication of the notice in the *Louisiana Register*.

B. In addition to the public notice that is provided for by Section 703.C, the Commissioner may inform the general public by a press release, which is distributed to newspapers which have a general circulation, that a creditor has filed a petition requesting approval of an additional fee or charge and that any interested person may make comments, observations, or objections known in the same manner and in the same time as is provided for in Subsection A of this Section.

C. The notice which is provided for by Section 703.C and the press release which is permitted by Subsection B of this Section shall briefly summarize the creditor's reasons for requesting the additional fee or charge. The notice and press release shall inform the general public that any person may obtain a copy of the creditor's request, including any attachments or documents filed therewith to support the request, at no cost to the person requesting it. A copy of the petition and attachments may be obtained by a written request sent via U.S. Postal Service, addressed to the Chief Examiner, Non-Depository Division, Office of Financial Institutions, 8660 United Plaza Boulevard, Baton Rouge, LA 70809. In the alternative, any person may obtain, in person, a copy at the same address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

D. By the end of the month following the month in which the petition for additional fees and charges was filed with the Office of Financial Institutions, if the fee or charge is approved, the Commissioner may announce the decision and publish it in the Potpourri section of the *Louisiana Register* which is issued in the month following the decision.

E. The creditor shall, within 30 days after the Office of Financial Institutions receives the Office of the State Register's invoice for costs of publication, reimburse the Office of Financial Institutions the total cost of publishing the notices provided for by Subsections A, C and D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3517(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:1992 (September 2000), repromulgated LR 26:2258 (October 2000).

Doris B. Gunn
Acting Commissioner

0010#101

## RULE

### Board of Elementary and Secondary Education

Bulletin 741CLouisiana Handbook for School AdministratorsCCarnegie 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 Board of Elementary and Secondary Education at its March 2000 meeting approved revisions to Standard 2.099.00 of Bulletin 741, *Louisiana Handbook for School Administrators*, regarding the awarding of Carnegie credit for mathematics and English language arts remediation courses. Two changes to the policy include:

1. Option 2 students (eighth grade students who scored *Unsatisfactory* on eighth grade LEAP 21) are eligible to receive elective Carnegie credit for remediation when they are placed in a transitional program on a high school campus and have scored at the *Basic* achievement level on eighth grade LEAP 21; and

2. increases from one to two, the maximum number of Carnegie units earned for remedial courses by high school students.

**Title 28**
**EDUCATION**
**Part I. Board of Elementary and Secondary Education**
**Chapter 9. Bulletins, Regulations, and State Plans**
**Subchapter A. Bulletins and Regulations**
**§901. School Approval Standards and Regulations**

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15); R.S. 17:7(5), (7), (11); R.S. 17:10, 11; R.S. 17:22(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975). amended LR 25:2160 (November 1999), LR 26:2259 (October 2000).

**Bulletin 741CLouisiana Handbook for School Administrators**

**Standard 2.099.00**

**2.099.00** In addition to completing a minimum of 23 Carnegie units of credit, the student shall also be required to pass the Graduation Exit Examination (GEE), beginning with the 1991 graduating class. This requirement shall first apply to students classified as sophomores in 1988-89 and thereafter.

The English language arts, writing, and mathematics components of the GEE shall first be administered to students in the tenth grade.

The science and social studies components of the graduation test shall first be administered to students in the eleventh grade.

Remediation and retake opportunities will be provided for students that do not pass the test.

Effective for incoming freshman 2000-2001, a student may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

Effective for the 2000-2001 school year, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the Unsatisfactory achievement level on either the English Language Arts and/or the Mathematics component of the eighth grade LEAP 21 provided the student:

1. participated in a transitional program on a traditional high school campus;
2. successfully completed specially designed elective(s) for remediation;
3. scored at or above the Basic achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the Unsatisfactory achievement level.

A student may apply a maximum of two Carnegie units of elective credit toward high school graduation by:

1. earning one elective credit through remediation for eighth grade LEAP 21and or one elective credit through GEE 21 remediation; or
2. earning two elective credits through GEE 21 remediation.

Weegie Peabody
Executive Director

0010#029

## RULE

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

Student Tuition and Revenue Trust (START Saving) Program (LAC 28:VI.107, 301, 307, 309)

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

**Title 28**

**EDUCATION**

**Part VI. Student Financial AssistanceCHigher Education Savings**

**Chapter 1. General Provisions**

**Subchapter A. Student Tuition Trust Authority**

**§101. Program Description and Purpose**

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

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

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

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

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

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

B. The START Saving Program establishes Education Savings Accounts by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated Beneficiary or a group of beneficiaries.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for Tuition Assistance Grants provided by the state to help offset the Beneficiary's cost of postsecondary Tuition.

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

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000).

**§103. Legislative Authority**

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

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000).

**§105. Program Administration**

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

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

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

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000).

**§107. Applicable Definitions**

*Account Owner*Cthe person(s), Independent Student, organization or group that completes a Depositor=s Agreement on behalf of a Beneficiary or beneficiaries and is the Account Owner of record of all funds credited to the account.

*Beneficiary*Cthe person named in the Education Savings Account Depositor=s Agreement as the individual entitled to apply the account balance, or portions thereof, toward payment of their postsecondary Qualified Higher Education Expenses.

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

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

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

*Education Scholarship Account (ESA)*Can account which is not eligible for Tuition Assistance Grants and is established on behalf of a Beneficiary or beneficiaries by a person or organization other than a parent, grandparent, legal guardian, Independent Student or person claiming the Beneficiary or beneficiaries as dependent(s) on that person's or organization's federal income tax return.

*Educational Term*Ca semester, quarter, term, summer session, inter-session, or an equivalent unit.

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

*Emergency Refund*Ca refund of the Redemption Value of an account due to an unforeseen event which has adversely impacted the Account Owner, such as termination of employment, death, or permanent disability and resulted in a severe reduction in income or extraordinary expenses.

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

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

*Family Member*Cin reference to the account Beneficiary:

1. an ancestor of such individual;
2. the spouse of such individual;
3. step-sibling(s) and their spouse;
4. a lineal descendant of such individual, of such individual's spouse or parent of such individual or the spouse of any lineal descendant described herein. A legally adopted child of an individual shall be treated as a lineal descendant of such individual.

*Fully Funded Account*Can account having a Redemption Value equal to or greater than five times the annual Tuition at the highest cost Louisiana public college or university projected to the scheduled date of the Beneficiary's first enrollment in an Eligible Educational Institution. An account which is "fully funded" is no longer eligible for accrual of Tuition Assistance Grants. However, if subsequent cost projections result in the fully funded amount being more than the account balance, then Tuition Assistance Grants may resume until the level of the most recent Fully Funded Account projection has been met.

*Independent Student*Ca person who is defined as an Independent Student by the Higher Education Act of 1965, as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the Beneficiary of an Education Assistance Account.

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

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

*Louisiana Resident*C

1. any person who resided in the state of Louisiana continuously during the 12 months immediately prior to the date of application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:
   a. if registered to vote, is registered to vote in Louisiana;
   b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
   c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
   d. if earning an income, has complied with state income tax laws and regulations.
2. a member of the Armed Forces stationed outside of Louisiana, but who claims Louisiana as his "home of record" and is in compliance with Paragraph 1.d above, is exempt from the requirement of continuous residence in the stateduring the 12 months preceding the date of completion of the Depositor=s Agreement;
3. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;
4. persons less than 21 years of age are considered Louisiana Residents if they reside with and are dependent upon one or more persons who meet the above requirements.

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

*Maximum Allowable Account Balance*Cthe amount, determined annually and expressed as a current dollar value, which is equal to five times the Qualified Higher Education Expenses at the highest cost institution in the state. Once the Redemption Value of an Education Assistance Account equals or exceeds the Maximum Allowable Account Balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the Maximum Allowable Account Balance, principal deposits may resume until the Redemption Value equals the most recently determined Maximum Allowable Account Balance.

*Qualified Higher Education Expenses*Ctuition, fees, books, supplies, equipment, and Room and Board required for the enrollment or attendance of a designated Beneficiary at an eligible institution of postsecondary education

*Rate of Expenditure*CCthe rate [see §309.C] per Educational Term, at which funds may be disbursed from an Education Assistance Account to pay the Beneficiary=s Qualified Higher Education Expenses at an Eligible Educational Institution.

*Redemption Value*Cthe cash value of an Education Savings Account attributable to the sum of the principal invested, the interest earned on principal and authorized to be credited to the account by the LATTA, any Tuition Assistance Grants appropriated by the legislature and authorized by the LATTA to be allocated to the account and the interest earned on Tuition Assistance Grants, less any

Tuition Assistance Grants or interest thereon restricted from expenditure and less any penalties required by *Internal Revenue Code*, §529(b)(3). If the account has a Redemption Value after the Beneficiary has completed his educational program, this excess value shall be treated as a refund.

*Refund Recipient*Cthe person authorized by the Depositor=s Agreement, or by operation of law, to receive refunds from the account.

*Room and Board*Cqualified Room and Board costs include the reasonable cost for the academic period incurred by the designated Beneficiary for Room and Board while attending an Eligible Educational Institution on at least a half time basis, not to exceed the maximum amount included for Room and Board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087II) for the Eligible Educational Institution for such period. Room and Board are only Qualified Higher Education Expenses for students who are enrolled at least half time.

*Scheduled Date of First-Enrollment*Cfor a dependent Beneficiary, is the month and year in which the Beneficiary turns 18 years of age. For an Independent Student, the scheduled date of first-enrollment is the expected date of enrollment reported by the Independent Student Beneficiary. This date is used to determine eligibility for Tuition Assistance Grants. See the term "*Fully Funded Account*."

*Tuition*Cthe mandatory educational charges required as a condition of enrollment and limited to undergraduate enrollment. It does not include nonresidence fees, laboratory fees, Room and Board nor other similar fees and charges.

*Tuition Assistance Grant*Ca 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.

*Voucher*Ca negotiable draft payable from the Louisiana Education Tuition and Savings Fund. All Vouchers issued by the LATTA shall bear an expiration date.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), amended LR 25:1794 (October 1999), LR 26:2260 (October 2000).

## Chapter 3. Education Savings Account

Note: Except where otherwise provided, all terms, conditions, and limitations in this Chapter shall apply to both Education Assistance Accounts and Education Scholarship Accounts.

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

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

B. Program Enrollment Period. An account may be opened and an eligible Beneficiary may be enrolled at any time during the calendar year.

C. Completing the Depositor=s Agreement

1. This agreement must be completed, in full, by the Account Owner.

2. The Account Owner shall designate a Beneficiary.

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

4. Transfer of Account Ownership is not permitted, except in the case of the death of an Account Owner.

5. Only the Account Owner or the Beneficiary may be designated to receive refunds from the account.

D. Agreement to Terms. Upon executing a Depositor=s Agreement, the Account Owner certifies that he understands and agrees to the following statements:

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

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

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

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

5. Conditions for Payment of Education ExpensesCthat payments for Qualified Higher Education Expenses under the START Saving Program are conditional upon the Beneficiary's acceptance and enrollment at an Eligible Educational Institution;

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

E. Acceptance of the Depositor=s Agreement

1. A properly completed and submitted Depositor=s Agreement will be accepted upon receipt.

2. Upon acceptance of the Depositor=s Agreement, the LATTA will establish the account of the named Beneficiary.

F. Citizenship Requirements. Both the Account Owner and Beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

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

G Residency Requirements

1. On the date an account is opened, either the Account Owner or his designated Beneficiary must be a Louisiana Resident, as defined in §107 of these rules.

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

H. Providing Personal Information

1. The Account Owner is required to disclose personal information in the Depositor=s Agreement, including:

a. his Social Security number;

b. the designated Beneficiary's Social Security number;

c. the Beneficiary's date of birth;

d. the familial relationship between the Account Owner and the designated Beneficiary;

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

2. By signing the Depositor=s Agreement, the Account Owner provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

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

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

I. First Disbursement Restriction. A minimum of one year must lapse between the date the Account Owner makes the first deposit opening an account and the first disbursement from the account to pay a Beneficiary's Qualified Higher Education Expenses, which will normally be the Beneficiary's projected scheduled date of first-enrollment in an Eligible Educational Institution.

J. Number of Accounts for a Beneficiary. There is no limit on the number of Education Savings Accounts that may be opened for one Beneficiary by different Account Owners; however, the sum total of funds in all accounts for the same Beneficiary may not exceed the Maximum Allowable Account Balance for that Beneficiary and the sum of all Education Assistance Accounts will be used to determine when these accounts are fully funded for the purpose of earning Tuition Assistance Grants.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000).

**§303. Reserved**

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

A. Application Fee and Initial Deposit Amount

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

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

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

4. A lump sum deposit may not exceed the Maximum Allowable Account Balance [see §107].

B. Deposit Options

1. The Account Owner shall select one of the following deposit options during the completion of the Depositor=s Agreement; however, the Account Owner may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

a. occasional lump sum payment(s);

b. monthly payments made directly to the LATTA or to a LATTA-approved financial institution;

c. automatic account debit, direct monthly transfer from the Account Owner's checking or savings account to the LATTA;

d. payroll deduction, if available through the Account Owner's employer.

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

3. After acceptance of the Depositor=s Agreement and annually thereafter, the LATTA will project the amount of the monthly deposit that will assure the Account Owner of sufficient savings to meet the Qualified Higher Education Expenses of the Beneficiary at the scheduled date of enrollment at the selected institution, or the highest cost public institution if one was not preselected.

C. Limitations on Deposits

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

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

3. Once the account becomes fully funded [see §107], it will no longer be considered for Tuition Assistance Grants, regardless of the total amount of annual deposits made to the account. 4. Once the Redemption Value has reached or exceeded the Maximum Allowable Account Balance [see §107], principal deposits will no longer be accepted to the account.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), repromulgated LR 26:2263 (October 2000).

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

A. Tuition Assistance Grants are state-appropriated funds allocated to an Education Assistance Account, on behalf of the Beneficiary named in the account.

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

2. Although allocated to individual accounts, Tuition Assistance Grants are state funds and shall be held in an

escrow account maintained by the state treasurer until disbursed to pay Tuition costs at an eligible institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income

1. The Account Owner's annual federal adjusted gross income is used in computing the annual Tuition Assistance Grant allocation.

2. To be eligible in any given year for a Tuition Assistance Grant, the Account Owner of an Education Assistance Account must:

a. authorize the LATTA to access the Account Owner's state tax return filed with the Louisiana Department of Revenue; or

b. provide the LATTA a copy of his federal income tax return filed for that year.

3. In completing the Depositor=s Agreement, the Account Owner of an Education Assistance Account authorizes the LATTA to access his records with the Louisiana Department of Revenue, for the purposes of verifying the Account Owner's federal adjusted gross income. In the event the Account Owner will not file his tax information with the Louisiana Department of Revenue by their May 15 deadline, he must provide the LATTA with:

a. a copy of the form filed with the Internal Revenue Service (Form 1040, 1040A, 1040EZ, or 1040TEL); or

b. a notarized statement as to why no income tax filing was required of the Account Owner.

4. To ensure timely allocation of Tuition Assistance Grants to the account, the Account Owner should provide these documents prior to July 1 following the applicable tax year. Tuition Assistance Grants will not be allocated to an Education Assistance Account until the LATTA has received verification of an Account Owner's federal adjusted gross income and interest on Tuition Assistance Grants will not accrue to the benefit of an Education Assistance Account until the LATTA has authorized the Tuition Assistance Grant allocation to the account.

5. If the Account Owner fails to provide the required tax documents by December 31 of the year following the taxable year, the account shall not be allocated a Tuition Assistance Grant for the year being considered.

C. Availability of Tuition Assistance Grants

1. The availability of Tuition Assistance Grants to be allocated to Education Assistance Accounts is subject to an appropriation by the Louisiana Legislature.

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

D. Tuition Assistance Grant Rates. The Tuition Assistance Grant rates applicable to an Education Assistance Account are determined by the federal adjusted gross income of the Account Owner, according to the following schedule:

| Reported Federal Adjusted Gross Income | Tuition Assistance Grant Rate* |
|---|---|
| 0 to $14,999 | 14 percent |
| $15,000 to $29,999 | 12 percent |
| $30,000 to $44,999 | 10 percent |
| $45,000 to $59,999 | 8 percent |
| $60,000 to $74,999 | 6 percent |
| $75,000 to $99,999 | 4 percent |
| $100,000 and above | 0 percent |

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

E. Restrictions on Allocation of Tuition Assistance Grants to Education Assistance Accounts. The allocation of Tuition Assistance Grants is limited to Education Assistance Accounts which have:

1. principal deposits totaling at least $100 annually; and

2. have an Account Owner's reported federal adjusted gross income of less than $100,000; and

3. have a Redemption Value that is less than that of a Fully Funded Account [see §107]; and

4. have an Account Owner or Beneficiary who is a resident of the State of Louisiana, as defined in §107 in the year for which a Tuition Assistance Grant is allocated.

F. Frequency of Allocation of Tuition Assistance Grants to Education Assistance Accounts. Tuition Assistance Grants will be allocated annually and reported to Account Owners after July 1, following the Account Owners' required disclosure of their prior year's reported federal adjusted gross income.

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

H. Restriction on Use of Tuition Assistance Grants

1. Tuition Assistance Grants, and any interest which may accrue thereon, may only be expended in payment of the Beneficiary's Tuition, or a portion thereof, at an Eligible Educational Institution.

2. Tuition Assistance Grants may not be used to pay for any Qualified Higher Education Expenses other than Tuition.

3. Tuition Assistance Grants, although allocated to a Beneficiary's account and reported on the Account Owner's annual statement, are assets of the state of Louisiana until disbursed to pay a Beneficiary's Tuition at an eligible institution. 4. Tuition Assistance Grants are not the property of the Account Owner or Beneficiary.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:2263 (October 2000).

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

A. Vouchers

1. Prior to each Educational Term, the LATTA will forward to the Beneficiary a Voucher with a statement specifying the Redemption Value of the Beneficiary's account, classified as Deposits or Tuition Assistance Grants, which may be expended for Qualified Higher Education Expenses and instructions for completion and submission of the Voucher.

2. The Beneficiary shall complete the Voucher by inserting the amount of the funds to be withdrawn and then signing it. The amount of funds to be withdrawn shall not exceed the Beneficiary's actual Qualified Higher Education Expenses for the Educational Term attended.

3. Upon completion, the Beneficiary shall submit the Voucher to the institution he shall attend.

B. Rate of Expenditure

1. As authorized by the Beneficiary on a payment Voucher, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and Tuition Assistance Grants (including earnings on grants) in the same ratio as these funds bear to the Redemption Value of the account.

2. For an Educational Term, the Beneficiary may not withdraw an amount in excess of the Qualified Higher Education Expenses for that term or the Redemption Value of the account or that amount calculated under 1, above, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the Beneficiary's enrollment and the institution's receipt of a Voucher, the institution may bill the START program for the Qualified Higher Education Expenses of the Beneficiary, up to the amount specified on the Voucher or the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, whichever is less.

2. The institution shall bill the START program by endorsing the Voucher and submitting it to LATTA. Vouchers shall be submitted in batches. Submission of a Voucher is certification by an institution that the amount of the Voucher does not exceed the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, the Beneficiary has enrolled, and the Tuition Assistance Grant component of the payment was credited to Tuition.

3. Upon receipt of the Voucher(s), the LATTA will disburse funds from the appropriate accounts, consolidate and forward payment directly to the institution.

4. The LATTA will make all payments for Qualified Higher Education Expenses directly to the Eligible Educational Institution.

5. No payments by LATTA for Qualified Higher Education Expenses shall be disbursed directly to the Beneficiary.

6. Payments forwarded to an institution by LATTA on behalf of a Beneficiary which exceed institutional charges shall be promptly refunded to the Beneficiary for payment of other Qualified Higher Education Expenses.

D. Failure to Attend and Withdrawal During an Educational Term

1. If the designated Beneficiary of an Education Savings Account enrolls, but fails to attend or withdraws from the institution prior to the end of the Educational Term and disbursements from the Education Savings Account have been used to pay all or part of his Qualified Higher Education Expenses for that Educational Term, an institutional refund to the Education Savings Account may be required.

2. If any refund is due the Beneficiary from the institution, a pro rata share of any refund of Qualified Higher Education Expenses, equal to that portion of the Qualified Higher Education Expenses paid by disbursements from the Education Savings Account, shall be made by the institution to the LATTA.

3. The LATTA will credit any refunded amount to the appropriate Education Savings Account.

E. Receipt of Scholarships

1. If the designated Beneficiary of an Education Savings Account is the recipient of a scholarship, waiver of Tuition, or similar subvention which cannot be converted into money by the Beneficiary, the Account Owner or the Beneficiary may request a refund from the Education Savings Account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

2. Upon the institution's verification that the Beneficiary received a scholarship, waiver or similar subvention, the LATTA will refund, without penalty, the amount to the Account Owner or the Beneficiary, as designated in the Depositor's Agreement.

F. Advanced Enrollment. A Beneficiary may enroll in an Eligible Educational Institution prior to his scheduled date of first-enrollment [see §107] and utilize Education Savings Account funds; however, a Beneficiary may not utilize funds from an Education Savings Account prior to one year from the date the Beneficiary made the first deposit opening the account.

G. Part-Time Attendance and Nonconsecutive Enrollment. A Beneficiary may utilize funds in an Education Savings Account for enrollments which are nonconsecutive and for part-time attendance at an Eligible Educational Institution. Room and Board is only a qualified higher education expense for students who are enrolled at least half time.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 26:2265 (October 2000).

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

A. Account Contributions. Contributions to an Education Savings Account are voluntary.

B. Account Terminations

1. The Account Owner may terminate an account at any time.

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

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

C. Refunds

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

2. All other requests for refund will result in the refund of the Redemption Value and termination of the account.

D. Designation of a Refund Recipient

1. In the Depositor's Agreement, the Account Owner may designate the Beneficiary to receive refunds from the account; however, the Beneficiary, if so designated, must be enrolled in an Eligible Educational Institution to be eligible for receipt of any such refund, otherwise the refund will be made directly to the Account Owner or his estate.

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

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

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate a Depositor's Agreement if it finds that the Account Owner or Beneficiary provided False or Misleading Information [see §107].

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

3. An individual who obtains program benefits by providing False or Misleading Information will be prosecuted to the full extent of the law.

F. Voluntary Termination of an Account without Penalty. No penalty will be assessed for accounts which are terminated and fully refunded or partially refunded due to the following reasons:

1. the death of the Beneficiary; the refund shall be equal to the Redemption Value of the account, less unexpended Tuition Assistance Grants and interest thereon, and shall be made to the Account Owner;

2. the disability of the Beneficiary; the refund shall be equal to the Redemption Value of the account, less unexpended Tuition Assistance Grants and interest thereon, and shall be made to the Account Owner or the Beneficiary, as designated in the Depositor's Agreement;

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

G. Voluntary Termination of an Account with Penalty

1. Refunds for any reason other than those specified in §311.E and F will be assessed a penalty of 10 percent of interest earned on principal deposits accumulated in said account at the time of termination which has not been expended for Qualified Higher Education Expenses.

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

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

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

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

3. Refunds made under the provisions of §311.G shall be equal to the Redemption Value of the Education Savings Account at the time of the refund minus 10 percent of accumulated interest earned on principal deposits which has not been expended for Qualified Higher Education Expenses, and shall be made to the person designated in the Depositor's Agreement.

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

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

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000).

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

A. Substitute Beneficiary. The Beneficiary of an Education Assistance Account may be changed to a substitute Beneficiary provided the Account Owner completes a Beneficiary Substitution form and the following requirements are met:

1. the substitute Beneficiary is a Family Member as defined under §107.

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

3. if the original Beneficiary is an Independent Student [see §107], meaning he is also the Account Owner of the account, the substitute Beneficiary must be the spouse or child of the Account Owner.

B. Assignment or Transfer of Account Ownership. The ownership of an Education Savings Account, and all interest, rights and benefits associated with such, are nontransferable.

C. Changes to the Depositor's Agreement

1. The Account Owner may request changes to the Depositor's Agreement.

2. Changes must be requested in writing and be signed by the Account Owner.

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

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

5. The Account Owner will be notified by the LATTA in writing of any changes affecting the Depositor's Agreement which result from changes in applicable federal and state statutes and rules.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000).

### §315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each Account Owner an annual statement of account which itemizes the:

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

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

c. total Tuition Assistance Grants and interest allocated to the account as of the statement date.

2. Tuition Assistance Grants shall be allocated annually and reported after July 1, following the Account Owners' required disclosure of their prior year's reported federal adjusted gross income.

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

B. Tuition Assistance Grants. Tuition Assistance Grants shall be allocated annually and reported to Account Owners by a separate letter of notification after July 1, following the Account Owners' compliance with Section 307B of these regulations.

C. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to Account Owners after the conclusion of the calendar year in which the interest was earned.

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

D. Refunded Amounts

1. Interest earned on an Education Savings Account which is refunded to the Account Owner or Beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

E. Maximum Allowable Account Balance Report

1. The Account Owner of an Education Savings Account will be notified, in writing, of the Maximum Allowable Account Balance.

2. The Maximum Allowable Account Balance is based on the cost of Qualified Higher Education Expenses for the Eligible Educational Institution designated on the Depositor's Agreement, projected to the date of the Beneficiary's Scheduled Date of First Enrollment.

3. If no Eligible Educational Institution was designated on the Depositor's Agreement, the Maximum Allowable Account Balance will be projected based upon the highest cost in-state eligible public educational institution.

4. If the Account Owner changes the institution designated on the Depositor's Agreement, a revised Maximum Allowable Account Balance will be calculated and the Account Owner will be notified of any change.

5. The Maximum Allowable Account Balance is revised and reported to Account Owners annually, and is based upon changes in the cost projections for Qualified Higher Education Expenses.

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

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

H. Individual Accounts. The LATTA will maintain an individual account for each Beneficiary, showing the Redemption Value of the account.

I. Confidentiality of Records. All records of the LATTA identifying Account Owners and designated beneficiaries of Education Savings Accounts, amounts deposited, expended or refunded, are confidential and are not public records.

J. No Investment Direction. No Account Owner or Beneficiary of an Education Savings Account may direct the investment of funds credited to an account.

K. No Pledging of Interest as Security. No interest in an Education Savings Account may be pledged as security for a loan.

L. Excess Funds

1. Principal deposits to an Education Savings Account are no longer accepted once the account total reaches the Maximum Allowable Account Balance [see §305.C]; however, the principal and interest earned thereon may continue to earn interest and any Tuition Assistance Grants allocated to the account may continue to accrue interest.

2. Funds in excess of the Maximum Allowable Account Balance may remain in the account and continue to accrue interest and may be expended to an Eligible Educational Institution in accordance with §309, or upon termination of the account, will be refunded in accordance with §311.

M. Withdrawal of Funds. Funds may not be withdrawn from an Education Savings Account except as set forth in §309 and §311.

N. NSF Procedure

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

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

O. Effect of a Change in Residency

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

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

3. Tuition Assistance Grants allocated to an Education Assistance Account are not transferrable nor refundable.

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

Q. Change in Projected School of Enrollment

1. The Account Owner may redesignate the Beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's fully funded or Maximum Allowable Account Balance, the Account Owner will be notified.

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

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000).

Mark S. Riley
Assistant Executive Director

0010#032

**RULE**

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

Tuition Opportunity Program for Students (TOPS)
High School Grade Point Average Calculation
(LAC 28:IV.301, 703, 803, 903 and 1703)

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), as follows:

**Title 28**
**EDUCATION**
**Part IV. Student Financial AssistanceCHigher Education Scholarship and Grant Programs**

**Chapter 3. Definitions**

**§301. Definitions**

* * *

*Cumulative High School Grade Point Average*Cthe final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted, including each course that is repeated. Effective for high school graduates beginning with the Academic Year (High School) 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.. 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. In the event a student takes the same core course more than one time, the Cumulative High School Grade Point Average shall be calculated using the average of the grades earned in each repeated course. For example, a student who earns an F in Algebra I and who earns a B by repeating the course would add 0 for the F to 3 for the B and divide by two, resulting in a 1.5 grade for calculating the Cumulative Grade Point Average.

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:

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

For school's awarding a maximum of 5 points for honor's courses, the formula would be used to convert the honors course grade of AC=as shown in the following example.

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

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

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

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 LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 (August 1999), LR 25:1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:2268 (October 2000).

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

**§703. Establishing Eligibility**

A. - A.9. ...

B. Students qualifying under '703.A.5.a and b, must have attained a cumulative high school grade point average based on a 4.00 maximum scale, for all courses attempted of at least:

1. a 2.50 for the Opportunity Award; or
2. a 3.50 for the Performance of Honors Awards.

C. - G.1.b. …

c. The college courses taken to satisfy core curriculum requirements and the grades reported on those courses are reflected in the student's official high school records. The student is awarded a high school diploma and the grade point average and core curriculum are certified to LASFAC by the high school in the same manner as that of other high school graduates.

G.1.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 LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:67 (January 2000), LR 26:689 (April 2000), LR 26:2268 (October 2000).

## 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. - 7. ...

8. if qualifying under §703.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted of at least 2.50; and

9. - 11. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:67 (January 2000), LR 26:2269 (October 2000).

## Chapter 9. TOPS Teacher Award

### §903. Establishing Eligibility

A. - A.4.a.ii. ...

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted; or

A.4.b. - A.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), repromulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000).

## 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

### §1703. High School=s Certification of Student Achievement

A. - B.2.b. ...

c. Final cumulative high school grade point average for all courses attempted, converted to a maximum 4.00 scale, if applicable (Note: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum.); and

d. - e. …

3. The responsible high school authority shall certify to LASFAC the final cumulative high school grade point average of each applicant and that average shall be inclusive of grades for all courses attempted and shall be computed and reported on a maximum 4.00 grading scale.

B.3.a. - D.3. ...

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), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:2269 (October 2000).

Jack L. Guinn
Executive Director

0010#031

# RULE

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

Tuition Trust Authority Bylaws (LAC 28:VI. 201, 203)

The Louisiana Tuition Trust Authority (LATTA), the statutory body created by R.S. 17:3093 et seq., in compliance with the Administrative Procedure Act, R.S. 49:950 et seq., revises its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28**
**EDUCATION**
**Part VI. Student Tuition Trust Authority**

## Chapter 2. Bylaws

### §201. Definitions and Authority

* * *

*Business of the Authority* (as used in these bylaws)CActivities on behalf of the authority, including attendance at authority meetings and authority committee meetings; presentations at legislative committee hearings on issues or bills which relate to the role, scope, mission or programs assigned the authority; presentations to the public and to federal and state officials related to the role, scope, mission, or programs assigned the authority; and participation in projects, meetings or conferences related to the role, scope, mission or programs assigned the agency; all or any of the foregoing as directed by the authority, authorized by the chairman or a committee chairman, or requested by the executive director.

* * *

*Services* (as used in these bylaws)CConducting the Business of the Authority.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000).

### §203. Meetings

A. - B. ...

C. Compensation

1. Members of the authority shall receive per diem as compensation for their services at the rate authorized by statute or as authorized by executive order. Members shall

be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the authority.

2. The authority is limited to twelve meetings per year for which per diem may be drawn by authority members.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000).

Mark S. Riley
Assistant Executive Director

0010#033

## RULE

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

Fluoroscopic X-Ray Systems (LAC 33:XV.605) (NEO26*)

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 Radiation Protection regulations, LAC 33:XV.605 (Log #NE026*).

This Rule is identical to federal regulations found in 21 CFR 1020.32, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule will relax requirements that are stricter than the federal requirements for exposure rate limits. It adds restrictions on equipment manufactured after May 19, 1995, when high level control is provided. This action will allow the state to become more compatible with the federal regulations. 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 XV. Radiation Protection**

**Chapter 6. X-Rays in the Healing Arts**

**§605. Fluoroscopic X-ray Systems**

A. All fluoroscopic x-ray systems shall be image intensified and meet the following requirements:

* * *

[See Prior Text in A.1 - 3.a.i]

(a). during recording of fluoroscopic images;

(b). when an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 roentgens (1.29 μC/kg) per minute at the point where the center of the useful beam enters the patient unless high level control is activated. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed; or

(c). when optional high level control is provided on equipment manufactured after May 19, 1995. When so provided, the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 10 roentgens (2.58 μC/kg) per minute at the point where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level control shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator and the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 20 roentgens (5.16 μC/kg) per minute at the point where the useful beam enters the patient. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

* * *

[See Prior Text in A.3.a.ii - 10.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2270 (October 2000).

James H. Brent, Ph.D.
Assistant Secretary

0010#020

## RULE

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

Incorporation by Reference Update, 40 CFR
Part 61 and 63 (LAC 33:III.5116 and 5122)(AQ207*).

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.5116 and 5122 (Log #AQ207*).

This Rule is identical to federal regulations found in 40 CFR Part 61 and 63, July 1, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference, into Chapter 51, additional federal regulations in 40 CFR Parts 61 and 63, National Emission Standards for Hazardous Organic Air

Pollutants (NESHAP), as well as removes previous references to Federal Registers. The state of Louisiana has received delegation of authority from EPA to implement NESHAP by "straight" delegation, which requires that we incorporate into the LAC rules as promulgated by EPA without changes. Louisiana incorporated certain NESHAP regulations by reference on January 20, 1997. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is now incorporating additional NESHAP regulations by reference. These changes will expedite both the EPA approval process and the state implementation of delegation of authority for the NESHAP program. The NESHAP and the authority for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, Section 112. This rulemaking is applicable to stationary sources statewide. The 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 51. Comprehensive Toxic Air Pollutant Emission Control Program**

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR part 61, revised as of July 1, 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 | Subpart/Appendix Heading |
|---|---|
| [See Prior Text in Subpart A - Appendix C] | |

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

C. Copies of documents incorporated by reference in this Chapter are available for review at the 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), LR 23:1658 (December 1997), amended LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000).

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 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 | Subpart/Appendix Heading |
|---|---|
| [See Prior Text in Subpart A - Subpart Y] | |
| Subpart AA | National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants |
| Subpart BB | National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants |
| [See Prior Text in Subpart CC - Subpart GG] | |
| Subpart HH | National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities |
| [See Prior Text in Subpart II - Subpart RR] | |
| Subpart SS | National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process |
| Subpart TT | National Emission Standards for Equipment Leaks - Control Level 1 |
| Subpart UU | National Emission Standards for Equipment Leaks - Control Level 2 Standards |
| [See Prior Text in Subpart VV] | |
| Subpart WW | National Emission Standards for Storage Vessels (Tanks) - Control Level 2 |
| Subpart YY | National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards |
| Subpart CCC | National Emission Standards for Hazardous Air Pollutants For Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants |
| Subpart DDD | National Emission Standards for Hazardous Air Pollutants For Mineral Wool Production |
| [See Prior Text in Subpart EEE] | |
| Subpart GGG | National Emission Standards for Pharmaceuticals Production |
| Subpart HHH | National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities |
| Subpart III | National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production |
| [See Prior Text in Subpart JJJ] | |
| Subpart LLL | National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry |
| Subpart MMM | National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production |
| Subpart NNN | National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing |

| 40 CFR 63 | SUBPART/APPENDIX HEADING |
|---|---|
| Subpart PPP | National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production |
| Subpart TTT | National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting |
| Subpart XXX | National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese |
| [See Prior Text in Appendix A - Appendix 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 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999), LR 25:1798 (October 1999). amended by the Office of Environmental Assessment, Environmental Planning Division LR 26:690 (April 2000), LR 26:2271 (October 2000).

James H. Brent, Ph.D.
Assistant Secretary

0010#021

## RULE

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

Incorporation by Reference Update,
40 CFR Part 68 (LAC 33:III.5901) (AQ205*)

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.5901 (Log #AQ205*).

This Rule is identical to federal regulations found in 40 CFR Part 68 through July 1, 1999, and 65 FR 13243-13250, Number 49, March 13, 2000, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The Rule incorporates by reference 40 CFR Part 68 through July 1, 1999, and 65 FR 13243-13250 air quality regulations. The federal regulation revises the list of regulated flammable substances to exclude those substances used as a fuel or held for sale as a fuel at a retail facility. This Rule will allow the facilities to comply with equivalent federal regulations. The basis and rationale for this rule are to be equivalent to 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 59. Chemical Accident Prevention and Minimization of Consequences**
**Subchapter A. General Provisions**
**§5901. Incorporation by Reference of Federal Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68 (July 1, 1999), and as amended in 65 FR 13243-13250 (March 13, 2000).

* * *

[See Prior Text in B - C.6]

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 26:70 (January 2000), LR 26:2272 (October 2000).

James H. Brent, Ph.D.
Assistant Secretary

0010#022

## RULE

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

LPDES Stormwater Phase II Regulations
(LAC 33:IX.Chapter 23)(WP039*)

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 Water Quality regulations, LAC 33:IX.Chapter 23 (Log #WP039*).

This Rule is identical to federal regulations found in 64 FR 68772-68852, Number 64, December 8, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The Phase II stormwater regulations expand the existing Louisiana Pollutant Discharge Elimination System (LPDES) stormwater program (Phase I) to address stormwater discharges from small municipal separate storm sewer systems (MS4s)(those serving less than 100,000 persons) and construction sites that disturb one to five acres. The regulations allow for the exclusion of certain sources based on a demonstration of the lack of impact on water quality, as well as the inclusion of others based on a higher likelihood of localized adverse impact on water quality. The regulations exclude from the LPDES program stormwater discharges from industrial facilities that have "no exposure" of

industrial activities or materials to stormwater. Also, the deadline by which certain industrial facilities owned by small MS4s must obtain coverage under an LPDES permit is extended from August 7, 2001 until March 10, 2003. In order to fulfill the department's responsibility as defined in the existing Memorandum of Agreement between the LDEQ and the US EPA, the department is required to develop and maintain the legal authority (including state regulations) to carry out all aspects of the LPDES program. The basis and rationale for this Rule are to enable Louisiana to retain its authorization and ensure that effective stormwater management will be practiced by a larger portion of the state.

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 IX. Water Quality Regulations**

**Chapter 3. Permits**

**§301. Scope**

* * *

[See Prior Text in A-D.1]

2. except as otherwise provided in this Chapter, storm sewer systems including canals and pumping stations operated and maintained by local, state, or federal agencies solely for the purposes of conveyance of storm water runoff, unless a particular storm water discharge has been identified by the office as a significant contributor to pollution; and the operator of such discharge has been notified of such determination. Such storm sewer systems are considered to be waters of the state and any facility or activity discharging into storm sewer systems shall be required to have permits according to the requirements of these regulations;

* * *

[See Prior Text in D.3-N]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000).

**Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**

**Subchapter B. Permit Application and Special LPDES Program Requirements**

**§2341. Storm Water Discharges**

A. Permit Requirement

* * *

[See Prior Text In A.1-8]

9. The state administrative authority may not require a permit for discharges of storm water as provided in Subsection A.2 of this Section or agricultural storm water runoff, which is exempted from the definition of point source at LAC 33:IX.2313 and 2315.

a. On and after October 1, 1994, for discharges composed entirely of storm water for which a permit is not required by Subsection A.1 of this Section, operators shall be required to obtain an LPDES permit only if:

i. the discharge is from a small MS4, as defined in Subsection B.17 of this Section, required to be regulated in accordance with LAC 33:IX.2347;

ii. the discharge is a storm water discharge associated with small construction activity in accordance with Subsection B.15 of this Section;

iii. either the state administrative authority or the EPA regional administrator determines that storm water controls are needed for the discharge based on wasteload allocations that are part of *total maximum daily loads* (TMDLs) that address the pollutant(s) of concern; or

iv. either the state administrative authority or the EPA regional administrator determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.

b. Operators of small MS4s designated in accordance with Subsection A.9.a.i, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with LAC 33:IX.2348 - 2350. Operators of nonmunicipal sources designated in accordance with Subsection A.9.a.ii, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with Subsection C.1 of this Section.

c. Operators of storm water discharges designated in accordance with Subsection A.9.a.iii and iv of this Section shall apply to the Office of Environmental Services, Permits Division for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the department.

B. Definitions

* * *

[See Prior Text in B.1-4]

a. located in an incorporated place with a population of 250,000 or more as determined by the 1990 Census by the Bureau of Census (LAC 33:IX.Chapter 23.Appendix F); or

* * *

[See Prior Text in B.4.b-7]

a. located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Census by the Bureau of Census (LAC 33:IX.Chapter 23.Appendix G); or

* * *

[See Prior Text In B.7.b-14.i]

j. construction activity including clearing, grading, and excavation activities, except operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more; and

k. facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25.

15. *Storm Water Discharge Associated with Small Construction Activity*C

a. the discharge from construction activities, including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The state administrative authority may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

i. the value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M Street, SW, Washington, DC 20460. An operator must certify to the state administrative authority that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

ii. storm water controls are not needed based on a TMDL established by the department or by EPA and approved by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this Clause, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the state administrative authority that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis; or

b. the discharge from any other construction activity designated by the state administrative authority or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the state.

**Exhibit 1. Summary of Coverage of "Storm Water Discharge Associated with Small Construction Activity" Under the LPDES Storm Water Program**

| | |
|---|---|
| Automatic Designation: Required Coverage | Construction activities that result in a land disturbance of equal to or greater than one acre and less than five acres. Construction activities disturbing less than one acre if part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and less than five acres (see Subsection B.15.a of this Section). |
| Potential Designation: Optional Evaluation and Designation by the State Administrative Authority or EPA Regional Administrator | Construction activities that result in a land disturbance of less than one acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants (see Subsection B.15.b of this Section). |
| Potential Waiver: Waiver from Requirements as Determined by the State Administrative Authority | Any automatically designated construction activity where the operator certifies: (1) a rainfall erosivity factor of less than five, or (2) that the activity will occur within an area where controls are not needed based on a TMDL or, for nonimpaired waters that do not require a TMDL, an equivalent analysis for the pollutant(s) of concern (see Subsection B.15.a of this Section). |

16. *Small Municipal Separate Storm Sewer System*Ca municipal separate storm sewer system that:

a. is owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or in accordance with state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;

b. is not defined as a *large* or *medium* municipal separate storm sewer system in accordance with Subsection B.4 and 7 of this Section, or designated under Subsection A.1.e of this Section; and

c. includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

17. *Small MS4*Ca small municipal separate storm sewer system.

18. *Municipal Separate Storm Sewer System*Ca separate storm sewer that is defined as a *large, medium,* or *small* municipal separate storm sewer system in accordance with Subsection B.4, 7, and 16 of this Section, or designated under Subsection A.1.e of this Section.

19. *MS4*Ca municipal separate storm sewer system.

20. *Uncontrolled Sanitary Landfill*Ca landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on or runoff controls established in accordance with subtitle D of the Solid Waste Disposal Act.

C. Application Requirements for Storm Water Discharges Associated with Industrial Activity and with Small Construction Activity

1. Individual Application. Dischargers of storm water associated with industrial activity and of storm water associated with small construction activity are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water that the state administrative authority is evaluating for designation (see LAC 33:IX.2443.C) under Subsection A.1.e of this Section, and is not a municipal separate storm sewer, and that is not part of a group application described under Subsection C.2 of this Section, shall submit an LPDES application in accordance with the requirements of LAC 33:IX.2331 as modified and supplemented by the provisions of the remainder of this Paragraph. Applicants for discharges composed entirely of storm water shall submit Form 1 and Form 2F. Applicants for discharges composed of storm water and non-storm water shall submit Form 1, Form 2C, and Form 2F. Applicants for new sources or new discharges (as defined in LAC 33:IX.2313) composed of storm water and non-storm water shall submit Form 1, Form 2D, and Form 2F.

* * *

[See Prior Text in C.1.a-a.vii]

b. The operator of an existing or new storm water discharge that is associated with industrial activity solely under Subsection B.14.j of this Section, or is associated with small construction activity solely under Subsection B.15 of this Section, is exempt from the requirements of LAC 33:IX.2331.G and Subsection C.1.a of this Section. Such operator shall provide a narrative description of:

* * *

[See Prior Text In C.1.b.i-E]

1. Individual Applications

* * *

[See Prior Text in E.1.a]

b. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, power plant, or uncontrolled sanitary landfill, the permit application must be submitted to the state administrative authority by March 10, 2003.

* * *

[See Prior Text In E.2-4.c]

5. A permit application shall be submitted to the state administrative authority within 180 days of notice, unless permission for a later date is granted by the administrative authority (see LAC 33:IX.2443) for:

a. a storm water discharge that is determined by either the state administrative authority or the EPA regional administrator to contribute to a violation of a water quality standard or is determined to be a significant contributor of pollutants to waters of the state (see Subsection A.1.e of this Section);

b. a storm water discharge subject to LAC 33:IX.2341.C.1.e.

* * *

[See Prior Text in E.6-7.c]

8. Any storm water discharge associated with small construction activity identified in Subsection B.15.a of this Section requires permit authorization by March 10, 2003, unless designated for coverage before then.

9. For any discharge from a regulated small MS4, the permit application made under LAC 33:IX.2348 must be submitted to the state administrative authority:

a. by March 10, 2003, if designated under LAC 33:IX.2347.A.1, unless the MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing schedule (see LAC 33:IX.2348.C.1); or

b. within 180 days of notice, unless the state administrative authority grants a later date, if designated under LAC 33:IX.2347.A.2 (see LAC 33:IX.2348.C.2).

F. Petitions

* * *

[See Prior Text in F.1-3]

4. Any person may petition the state administrative authority for the designation of a large, medium, or small municipal separate storm sewer system as defined in Subsection B.4.d or 7.d of this Section.

5. The state administrative authority shall make a final determination on any petition received under this Section within 90 days after receiving the petition, with the exception of petitions to designate a small MS4, in which case the state administrative authority shall make a final determination on the petition within 180 days after its receipt.

G. Conditional Exclusion for *No Exposure* of Industrial Activities and Materials to Storm Water. Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is *no exposure* of industrial materials and activities to rain, snow, snowmelt, and/or runoff and the discharger satisfies the conditions in Subsection G.1-4 of this Section. *No exposure* means that all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

1. Qualification. To qualify for this exclusion, the operator of the discharge must:

a. provide a storm-resistant shelter to protect industrial materials and activities from exposure to rain, snow, snowmelt, and/or runoff;

b. complete and sign (according to LAC 33:IX.2333) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in Subsection G.2 of this Section;

c. submit the signed certification to the state administrative authority once every five years;

d. allow the state administrative authority to inspect the facility to determine compliance with the no-exposure conditions;

e. allow the state administrative authority to make any no-exposure inspection reports available to the public upon request; and

f. for facilities that discharge through an MS4, upon request, submit a copy of the certification of no exposure to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

2. Industrial Materials and Activities Not Requiring Storm-Resistant Shelter. To qualify for this exclusion, storm-resistant shelter is not required for:

a. drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak (*sealed* means banded or otherwise secured and without operational taps or valves);

b. adequately-maintained vehicles used in material handling; and

c. final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

3. Limitations

a. Storm water discharges from construction activities identified in Subsection B.14.j and 15 of this Section are not eligible for this conditional exclusion.

b. This conditional exclusion from the requirement for an LPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be no-exposure discharges, individual permit requirements should be adjusted accordingly.

c. If circumstances change and industrial materials or activities become exposed to rain, snow, snowmelt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for unpermitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

d. Notwithstanding the provisions of this Subparagraph, the state administrative authority retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

4. Certification. The no-exposure certification must require the submission of the following information, at a minimum, to aid the department in determining if the facility qualifies for the no-exposure exclusion:

a. the legal name, address, and phone number of the discharger (see LAC 33:IX.2331.B);

b. the facility name and address, the parish name, and the latitude and longitude where the facility is located;

c. a statement that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

i. using, storing, or cleaning industrial machinery or equipment, and areas where residuals from using, storing, or cleaning industrial machinery or equipment remain;

ii. materials or residuals on the ground or in storm water inlets from spills/leaks;

iii. materials or products from past industrial activity;

iv. material handling equipment (except adequately maintained vehicles);

v. materials or products during loading/unloading or transporting activities;

vi. materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

vii. materials contained in open, deteriorated, or leaking storage drums, barrels, tanks, and similar containers;

viii. materials or products handled/stored on roads or railways owned or maintained by the discharger;

ix. waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

x. application or disposal of process wastewater (unless otherwise permitted); and

xi. particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow; and

d. the following certification statement, signed in accordance with the signatory requirements of LAC 33:IX.2333:

"I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of no exposure and obtaining an exclusion from LPDES storm water permitting, and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under LAC 33:IX.2341.G.2). I understand that I am obligated to submit a no-exposure certification form once every five years to the state administrative authority and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the state administrative authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an LPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000).

**§2345. General Permits**

* * *

[See Prior Text In A- B.2.d]

e. Discharges other than discharges from publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the state administrative authority, be authorized to discharge under a general permit without submitting a notice of intent where the state administrative authority finds that a notice of intent requirement would be inappropriate. In making such a finding, the state administrative authority shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The state administrative authority shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

* * *

[See Prior Text In B.2.f- C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000).

### §2346. What are the Objectives of the Storm Water Regulations for Small MS4s?

A. LAC 33:IX.2346-2352 are written in a *readable regulation* format that includes both department guidance, which is not legally binding, as well as code requirements. This format is used to make it easier to understand the regulatory requirements. Like other department regulations, this establishes enforceable legal requirements. For these sections, *I* and *you* refer to the owner/operator. The department has clearly distinguished its recommended guidance from the code requirements by putting the guidance in a separate paragraph headed by the word *guidance*.

B. Under the statutory mandate in section 402(p)(6) of the Clean Water Act, the purpose of this portion of the storm water program is to designate additional sources that need to be regulated to protect water quality and to establish a comprehensive storm water program to regulate these sources. (Because the storm water program is part of the Louisiana Pollutant Discharge Elimination System (LPDES) program, you should also refer to LAC 33:IX.2311, which addresses the broader purpose of the LPDES program.)

C. Storm water runoff continues to harm the nation's waters. Runoff from lands modified by human activities can harm surface water resources in several ways, including by changing natural hydrologic patterns and by elevating pollutant concentrations and loadings. Storm water runoff may contain or mobilize high levels of contaminants, such as sediment, suspended solids, nutrients, heavy metals, pathogens, toxins, oxygen-demanding substances, and floatables.

D. The department strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and consistently protecting and restoring aquatic ecosystems and protecting public health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2277 (October 2000).

### §2347. As an Operator of a Small MS4, am I Regulated Under the LPDES Storm Water Program?

A. Unless you qualify for a waiver under Subsection C of this Section, you are regulated if you operate a small MS4 including, but not limited to, systems operated by federal, state, tribal, and local governments, including state departments of transportation, and:

1. your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or

2. you are designated by the state administrative authority, including where the designation is based upon a petition under LAC 33:IX.2341.F.4.

B. You may be the subject of a petition to the state administrative authority to require an LPDES permit for your discharge of storm water. If the state administrative authority determines that you need a permit, you are required to comply with LAC 33:IX.2348-2350.

C. The state administrative authority may waive the requirements otherwise applicable to you if you meet the criteria of Subsection D or E of this Section. If you receive this waiver, you may subsequently be required to seek coverage under an LPDES permit in accordance with LAC 33:IX.2348.A if circumstances change.

D. The state administrative authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:

1. your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the LPDES storm water program; and

2. if you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, storm water controls are not needed based on wasteload allocations that are part of a department-established *total maximum daily load* (TMDL) that addresses the pollutant(s) of concern.

E. The department may waive permit coverage if your MS4 serves a population under 10,000 and you meet the following criteria:

1. the department has evaluated all waters of the state, including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4;

2. for all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of a TMDL established by the department or by EPA and approved by EPA that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

3. for the purpose of this Subsection, the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation), pathogens, oil and grease, and any pollutant that has been identified as a

cause of impairment of any water body that will receive a discharge from your MS4; and

4. the department has determined that future discharges from your MS4 do not have the potential to result in noncompliance with water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2277 (October 2000).

**§2348. If I Am an Operator of a Regulated Small MS4, How Do I Apply for an LPDES Permit and When Do I Have to Apply?**

A. If you operate a regulated small MS4 under LAC 33:IX.2347, you must seek coverage under an LPDES permit issued by the Department of Environmental Quality, Office of Environmental Services, Permits Division.

B. You must seek authorization to discharge under a general or individual LPDES permit, as follows:

1. if the Office of Environmental Services, Permits Division has issued a general permit applicable to your discharge and you are seeking coverage under the general permit, you must submit a Notice of Intent (NOI) that includes the information on your best management practices and measurable goals required by LAC 33:IX.2349.D. You may file your own NOI or you and other municipalities or governmental entities may jointly submit a NOI. If you want to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, you must submit a NOI that describes which minimum measures you will implement and identify the entities that will implement the other minimum measures within the area served by your MS4. The general permit will explain any other steps necessary to obtain permit authorization;

2.a. if you are seeking authorization to discharge under an individual permit and wish to implement a program under LAC 33:IX.2349, you must submit an application to the Department of Environmental Quality, Office of Environmental Services, Permits Division that includes the information required under LAC 33:IX.2331.F and 2349.D, an estimate of square mileage served by your small MS4, and any additional information that the Permits Division requests. A storm sewer map that satisfies the requirement of LAC 33:IX.2349.B.3.a will satisfy the map requirement in LAC 33:IX.2331.F.7;

b. if you are seeking authorization to discharge under an individual permit and wish to implement a program that is different from the program under LAC 33:IX.2349, you will need to comply with the permit application requirements of LAC 33:IX.2341.D. You must submit both parts of the application requirements in LAC 33:IX.2341.D.1 and 2 by March 10, 2003. You do not need to submit the information required by LAC 33:IX.2341.D.1.b and 2 regarding your legal authority, unless you intend for the permit writer to take such information into account when developing your other permit conditions; and

c. if approved by the Office of Environmental Services, Permits Division, you and another regulated entity may jointly apply under either Subsection B.2.a or b of this Section to be co-permittees under an individual permit;

3. if your small MS4 is in the same urbanized area as a medium or large MS4 with an LPDES storm water permit and that other MS4 is willing to have you participate in its storm water program, you and the other MS4 may jointly seek a modification of the other MS4 permit to include you as a limited co-permittee. As a limited co-permittee, you will be responsible for compliance with the permit's conditions applicable to your jurisdiction. If you choose this option you will need to comply with the permit application requirements of LAC 33:IX.2341, rather than the requirements of LAC 33:IX.2349. You do not need to comply with the specific application requirements of LAC 33:IX.2341.D.1.c,d, and 2.c (discharge characterization). You may satisfy the requirements in LAC 33:IX.2341.D.1.e and 2.e (identification of a management program) by referring to the other MS4's storm water management program; and

4. guidanceCin referencing an MS4's storm water management program, you should briefly describe how the existing plan will address discharges from your small MS4 or would need to be supplemented in order to adequately address your discharges. You should also explain your role in coordinating storm water pollutant control activities in your MS4 and detail the resources available to you to accomplish the plan.

C. If you operate a regulated small MS4:

1. designated under LAC 33:IX.2347.A.1, you must apply for coverage under an LPDES permit or apply for a modification of an existing LPDES permit under Subsection B.3 of this Section by March 10, 2003, unless your MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing; and

2. designated under LAC 33:IX.2347.A.2, you must apply for coverage under an LPDES permit, or apply for a modification of an existing LPDES permit under Subsection B.3 of this Section within 180 days of notice, unless the state administrative authority grants a later date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000).

**§2349. As an Operator of a Regulated Small MS4, What Will My LPDES MS4 Storm Water Permit Require?**

A. Your LPDES MS4 permit will require, at a minimum, that you develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable (MEP), to protect water quality and to satisfy the appropriate water quality requirements of the Louisiana Water Control Law and the federal Clean Water Act. Your storm water management program must include the minimum control measures described in Subsection B of this Section unless you apply for a permit under LAC 33:IX.2341.D. For purposes of this Section, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the MEP) and to protect water quality. Implementation of best management practices consistent with the provisions of the storm water management program

required in accordance with this Section and the provisions of the permit required in accordance with LAC 33:IX.2348 constitutes compliance with the standard of reducing pollutants to the maximum extent practicable. Your state administrative authority will specify a time period of up to five years from the date of permit issuance for you to develop and implement your program.

B. Minimum Control Measures

1. Public Education and Outreach on Storm Water Impacts

a. You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

b. Guidance. You may use storm water educational materials provided by your state, tribe, EPA, environmental, public interest or trade organizations, or other MS4s. The public education program should inform individuals and households about the steps they can take to reduce storm water pollution, such as ensuring proper septic system maintenance, ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil or household hazardous wastes. The department recommends that the program inform individuals and groups how to become involved in local stream and beach restoration activities as well as activities that are coordinated by youth service and conservation corps or other citizen groups. The department recommends that the public education program be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities. Examples of strategies include distributing brochures or fact sheets, sponsoring speaking engagements before community groups, providing public service announcements, implementing educational programs targeted at school age children, and conducting community-based projects such as storm drain stenciling and watershed and beach cleanups. In addition, the department recommends that some of the materials or outreach programs be directed toward targeted groups of commercial, industrial, and institutional entities likely to have significant storm water impacts. Examples of this would include providing information to restaurants on the impact of grease clogging storm drains and to garages on the impact of oil discharges. You are encouraged to tailor your outreach program to address the viewpoints and concerns of all communities, particularly minority and disadvantaged communities, as well as any special concerns relating to children.

2. Public Involvement/Participation

a. You must, at a minimum, comply with state, tribal, and local public notice requirements when implementing a public involvement/participation program.

b. Guidance. The department recommends that the public be included in developing, implementing, and reviewing your storm water management program and that the public participation process should make efforts to reach out and engage all economic and ethnic groups. Opportunities for members of the public to participate in program development and implementation include serving as citizen representatives on a local storm water management panel, attending public hearings, working as citizen volunteers to educate other individuals about the program, assisting in program coordination with other pre-existing programs, or participating in volunteer monitoring efforts. (Citizens should obtain approval where necessary for lawful access to monitoring sites.)

3. Illicit Discharge Detection and Elimination

a. You must develop, implement, and enforce a program to detect and eliminate illicit discharges (see LAC 33:IX.2341.B.2) into your small MS4.

b. You must:

i. develop, if not already completed, a storm sewer system map showing the location of all outfalls and the names and location of all waters of the state that receive discharges from those outfalls;

ii. to the extent allowable under state, tribal, or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;

iii. develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system; and

iv. inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

c. You need to address the following categories of non-storm water discharges or flows (e.g., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the state).

d. Guidance. The department recommends that the plan to detect and address illicit discharges include the following four components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; procedures for removing the source of the discharge; and procedures for program evaluation and assessment. The department recommends visually screening outfalls during dry weather and conducting field tests of selected pollutants as part of the procedures for locating priority areas. Illicit discharge education actions may include storm drain stenciling, a program to promote, publicize, and facilitate public reporting of illicit connections or discharges, and distribution of outreach materials.

4. Construction Site Storm Water Runoff Control

a. You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre.

Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the state administrative authority waives requirements for storm water discharges associated with small construction activity in accordance with LAC 33:IX.2341.B.15.a, you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. Your program must include the development and implementation of, at a minimum:

i. an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state, tribal, or local law;

ii. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

iii. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;

iv. procedures for site plan review that incorporate consideration of potential water quality impacts;

v. procedures for receipt and consideration of information submitted by the public; and

vi. procedures for site inspection and enforcement of control measures.

c. Guidance: Examples of sanctions to ensure compliance include non-monetary penalties, fines, bonding requirements, and/or permit denials for noncompliance. The department recommends that procedures for site plan review include the review of individual preconstruction site plans to ensure consistency with local sediment and erosion control requirements. Procedures for site inspections and enforcement of control measures could include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. You are encouraged to provide appropriate educational and training measures for construction site operators. You may wish to require a storm water pollution prevention plan for construction sites within your jurisdiction that discharge into your system. See LAC 33:IX.2361.R (LPDES permitting authorities' option to incorporate qualifying state, tribal, and local erosion and sediment control programs into LPDES permits for storm water discharges from construction sites). Also, see LAC 33:IX.2350.B. (The state administrative authority may recognize that another government entity, including the administrative authority, may be responsible for implementing one or more of the minimum measures on your behalf.)

5. Post-Construction Storm Water Management in New Development and Redevelopment

a. You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts.

b. You must:

i. develop and implement strategies that include a combination of structural and/or non-structural BMPs appropriate for your community;

ii. use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state, tribal, or local law; and

iii. ensure adequate long-term operation and maintenance of BMPs.

c. Guidance. If water quality impacts are considered from the beginning stages of a project, new development and, potentially, redevelopment provide more opportunities for water quality protection. The department recommends that the BMPs chosen be appropriate for the local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions. In choosing appropriate BMPs, the department encourages you to participate in locally-based watershed planning efforts that attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, the department recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs, and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, you should provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters, and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. The department recommends that you ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design,

construction, or operation and maintenance. Storm water technologies are constantly being improved, and the department recommends that your requirements be responsive to these changes, developments, or improvements in control technologies.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. You must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, your state, tribe, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

b. Guidance. The department recommends that, at a minimum, you consider the following in developing your program: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural storm water controls to reduce floatables and other pollutants discharged from your separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by you, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices. Operation and maintenance should be an integral component of all storm water management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary. Properly developed and implemented operation and maintenance programs reduce the risk of water quality problems.

C. If an existing qualifying local program requires you to implement one or more of the minimum control measures of Subsection B of this Section, the state administrative authority may include conditions in your LPDES permit that direct you to follow that qualifying program's requirements rather than the requirements of Subsection B of this Section. A qualifying local program is a local, state, or tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of Subsection B of this Section.

D.1. In your permit application (either a notice of intent for coverage under a general permit or an individual permit application) you must identify and submit to the Office of Environmental Services, Permits Division the following information:

a. the BMPs that you or another entity will implement for each of the storm water minimum control measures at Subsection B.1-6 of this Section;

b. the measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, interim milestones, and the frequency of the action; and

c. the person or persons responsible for implementing or coordinating your storm water management program.

2. If you obtain coverage under a general permit, you are not required to meet any measurable goal(s) identified in your notice of intent in order to demonstrate compliance with the minimum control measures in Subsection B.3-6 of this Section unless, prior to submitting your NOI, the Office of Environmental Services, Permits Division has provided or issued a menu of BMPs that addresses each such minimum measure. Even if that office does not issue the menu of BMPs, however, you still must comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum measures.

3. Guidance. Either EPA or the department will provide a menu of BMPs. You may choose BMPs from the menu or select others that satisfy the minimum control measures.

E.1. You must comply with any more stringent effluent limitations in your permit, including permit requirements that modify, or are in addition to, the minimum control measures based on an approved TMDL or equivalent analysis. The department may include such more stringent limitations based on a TMDL or equivalent analysis that determines such limitations are needed to protect water quality.

2. Guidance. EPA has strongly recommended that until the evaluation of the storm water program in LAC 33:IX.2352, no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4, except where an approved TMDL or equivalent analysis provides adequate information to develop more specific measures to protect water quality.

F. You must comply with other applicable LPDES permit requirements, standards, and conditions established in the individual or general permit, developed consistently with the provisions of LAC 33:IX.2355-2369, as appropriate.

G Evaluation and Assessment

1. Evaluation. You must evaluate program compliance, the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals. [Note: The state administrative authority may determine monitoring requirements for you in accordance with state/tribal monitoring plans appropriate to your watershed. Participation in a group monitoring program is encouraged.]

2. Recordkeeping. You must keep records required by the LPDES permit for at least three years. You must submit your records to the state administrative authority only when specifically asked to do so. You must make your records, including a description of your storm water management program, available to the public at reasonable times during regular business hours (see LAC 33:IX.2323 for confidentiality provision). You may assess a reasonable charge for copying. You may require a member of the public to provide advance notice.

3. Reporting. Unless you are relying on another entity to satisfy your LPDES permit obligations under LAC

33:IX.2350.A, you must submit annual reports to the state administrative authority for your first permit term. For subsequent permit terms, you must submit reports in years two and four unless the state administrative authority requires more frequent reports. Your report must include:

a. the status of compliance with permit conditions, an assessment of the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals for each of the minimum control measures;

b. results of information collected and analyzed, including monitoring data, if any, during the reporting period;

c. a summary of the storm water activities you plan to undertake during the next reporting cycle;

d. a change in any identified best management practices or measurable goals for any of the minimum control measures; and

e. notice that you are relying on another governmental entity to satisfy some of your permit obligations (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000).

### §2350. As an Operator of a Regulated Small MS4, May I Share the Responsibility to Implement the Minimum Control Measures with Other Entities?

A. You may rely on another entity to satisfy your LPDES permit obligations to implement a minimum control measure if:

1. the other entity, in fact, implements the control measure;

2. the particular control measure, or component thereof, is at least as stringent as the corresponding LPDES permit requirement; and

3. the other entity agrees to implement the control measure on your behalf. In the reports you must submit under LAC 33:IX.2349.G.3, you must also specify that you rely on another entity to satisfy some of your permit obligations. If you are relying on another governmental entity regulated under LAC 33:IX.Chapter 23 to satisfy all of your permit obligations, including your obligation to file periodic reports required by LAC 33:IX.2349.G.3, you must note that fact in your NOI, but you are not required to file the periodic reports. You remain responsible for compliance with your permit obligations if the other entity fails to implement the control measure (or component thereof). Therefore, the department encourages you to enter into a legally binding agreement with that entity if you want to minimize any uncertainty about compliance with your permit.

B. In some cases the Office of Environmental Services, Permits Division may recognize, either in your individual LPDES permit or in an LPDES general permit, that another governmental entity is responsible under an LPDES permit for implementing one or more of the minimum control measures for your small MS4 or that the department itself is responsible. Where the Office of Environmental Services, Permits Division does so, you are not required to include such minimum control measure(s) in your storm water management program (e.g., if a state or tribe is subject to an LPDES permit that requires it to administer a program to control construction site runoff at the state or tribal level and that program satisfies all of the requirements of LAC 33:IX.2349.B.4, you could avoid responsibility for the construction measure, but would be responsible for the remaining minimum control measures). Your permit may be reopened and modified to include the requirement to implement a minimum control measure if the entity fails to implement it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000).

### §2351. As an Operator of a Regulated Small MS4, What Happens if I Don't Comply with the Application or Permit Requirements in LAC 33:IX.2348-2350?

A. In accordance with LAC 33:IX.2355.A violators of provisions of the LPDES system or permit conditions are subject to enforcement actions and penalties. If you are covered as a co-permittee under an individual permit or under a general permit by means of a joint notice of intent, you remain subject to the enforcement actions and penalties for the failure to comply with the terms of the permit in your jurisdiction, except as set forth in LAC 33:IX.2350.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000).

### §2352. Will the Small MS4 Storm Water Program Regulations at LAC 33:IX.2347-2351 Change in the Future?

A. EPA will evaluate the small MS4 regulations at LAC 33:IX.2347-2351 after December 10, 2012, and recommend any necessary revisions. Required revisions will then be incorporated into the LPDES program by the Office of Environmental Services, Permits Division. (EPA intends to conduct an enhanced research effort and compile a comprehensive evaluation of the NPDES MS4 storm water program. EPA will re-evaluate the regulations based on data from the NPDES MS4 storm water program, from research on receiving water impacts from storm water, and the effectiveness of BMPs, as well as other relevant information sources.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000).

## Subchapter C. Permit Conditions

### §2361. Establishing Limitations, Standards, and Other Permit Conditions

In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.

* * *

[See Prior Text In A-K.1]

2. authorized under section 402(p) of the CWA for the control of storm water discharges;

3. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA; or

4. numeric effluent limitations are infeasible.

* * *

[See Prior Text In L-Q]

R. Qualifying State, Tribal, or Local Programs

1. For storm water discharges associated with small construction activity identified in LAC 33:IX.2341.B.15, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. When a qualifying state, tribal, or local program does not include one or more of the elements in this Subsection, the state administrative authority must include those elements as conditions in the permit. A qualifying state, tribal, or local erosion and sediment control program is one that includes:

a. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

b. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;

c. requirements for construction site operators to develop and implement a storm water pollution prevention plan. (A storm water pollution prevention plan includes site descriptions, descriptions of appropriate control measures, copies of approved state, tribal, or local requirements, maintenance procedures, inspection procedures, and identification of non-storm water discharges); and

d. requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.

2. For storm water discharges from construction activity identified in LAC 33:IX.2341.B.14.j, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. A qualifying state, tribal, or local erosion and sediment control program is one that includes the elements listed in Subsection R.1 of this Section and any additional requirements necessary to achieve the applicable technology-based standards of *best available technology* and *best conventional technology* based on the best professional judgment of the permit writer.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000).

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

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

When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407.B and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407.B.2). If cause does not exist under this Section or LAC 33:IX.2385, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in LAC 33:IX.Chapter 23.Subchapters E and F followed.

* * *

[See Prior Text In A-A.13]

14. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in LAC 33:IX.2349.B when:

a. the permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s); and

b. the other entity fails to implement measure(s) that satisfy the requirement(s).

* * *

[See Prior Text In A.15- B.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000).

## Subchapter F. Specific Decisionmaking Procedures Applicable to LPDES Permits

### §2443. Permits Required on a Case-by-Case Basis

* * *

[See Prior Text in A-B]

C. Prior to a case-by-case determination that an individual permit is required for a storm water discharge under this Section (see LAC 33:IX.2341.A.1.e, C.1.e, and G.1.a), the state administrative authority may require the discharger to submit a permit application or other information regarding the discharge under Section 308 of the CWA. In requiring such information, the state administrative authority shall notify the discharger in writing and shall send an application form with the notice. The discharger must apply for a permit within 180 days of notice, unless permission for a later date is granted by the state administrative authority. The question whether the initial designation was proper will remain open for consideration during the public comment period under LAC 33:IX.2417 and in any subsequent hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000).

James H. Brent, Ph.D.
Assistant Secretary

0010#023

**RULE**

**Office of the Governor**
**Division of Administration**
**Property Assistance Agency**

Items of Property to be Inventoried
(LAC 34:VII.307)

Editor's Note: This rule is being repromulgated in its entirety to correct an error. The original rule may be viewed in the September 20, 2000 issue of the *Louisiana Register* on page 2005.

In accordance with the R.S. 49:950, et seq., the Division of Administration, Louisiana Property Assistance Agency, hereby amends LAC 34:VII.307.

**Title 34**
**GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL**
**Part VII. Property Control**
**Chapter 3. State Property Inventory**
**§307 Items of Property to be Inventoried**

A. All items of moveable property having an original acquisition cost, when first purchased by the state of Louisiana, of $1000 or more, all gifts and other property having a fair market value of $1000 or more, and all weapons, regardless of cost, with the exception of items specifically excluded in §307.F and §307.G, must be placed must be placed on the statewide inventory system. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from “supplies” with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent inventory information must be forwarded to the Louisiana Property Assistance Agency Director or his designee within 45 days after receipt of these items.

B. Gifts of moveable property must be given a fair market value as agreed upon between the donor and head of the receiving agency and recorded in the inventory if the fair market value is $1000 or more.

C. Agencies manufacturing moveable property for use within the agency must determine the estimated cost based on the cost of labor and materials and include such items in the inventory provided that estimated cost is $1000 or more.

D. Agencies which are eligible to receive federal surplus property must place on inventory all items acquired from Federal Surplus which would ordinarily be classified as moveable property and which have an acquisition cost of $1000 or more. The acquisition date will be the date of acquisition by the state agency and the acquisition cost will be the actual cost incurred by the state agency.

Note: There are federal regulations regarding accountability for federal surplus property. State agencies should contact the Federal Surplus Property section for information regarding these regulations.

E. Livestock acquired for breeding, dairy, and experimental purposes are classified as property and, with the exception of fowl, and rodents, and any other similar type small mammals, must be recorded in the inventory regardless of the value per animal. Animals acquired for slaughter need not be placed on inventory. When an agency acquires livestock by birth and determination is made that such animals will be used for breeding, dairy, or experimental purposes, the animals shall be included in the inventory and noted as having been acquired by birth and given an appraised fair market value. At each annual inventory, the value of livestock acquired by birth and used for breeding, dairy, or experimental purposes will be re-appraised by the agency property manager and the acquisition cost will be adjusted on the inventory in accord with current fair market value. When an agency acquires livestock by birth and determination is made that such animals will be slaughtered for food, the animals shall not be included in the inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39.321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control, LR 2.241 (August 1976), amended LR 8.144 (March 1982), amended by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 12:103 (February 1986), LR 26:2005 (September 2000), repromulgated LR 26:2284 (October 2000).

Irene C. Babin
Director

0010#018

**RULE**

**Department of Health and Hospitals**
**Board of Pharmacy**

Pharmacy Education (LAC 46:LIII.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1163 et seq.), the Louisiana Board of Pharmacy hereby repeals the current contents of the referenced chapter and adopts the entire chapter.

**Title 46**
**PROFESSIONAL AND OCCUAPTIONAL STANDARDS**
**Part LIII. Pharmacists**
**Chapter 7. Pharmacy Education**
**§701. Statutory Authority**

A. All applicants for licensure by examination shall have obtained practical experience in the practice of pharmacy concurrent with attending or after graduation from an approved college of pharmacy. The practical experience shall be predominately related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and making of reports as required under state and federal law. The practical experience obtained shall have

been under the direct and immediate supervision of a certified pharmacist preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2284 (October 2000).

### §703. Student Registration and Internship Program

A. Qualifications

1. a student enrolled in an approved college of pharmacy, or

2. a graduate of an approved college of pharmacy or a graduate who has established educational equivalency through a program approved by the Board, or

3. an individual participating in a residency or fellowship.

a. *Residency*Can organized, directed postgraduate training program in a defined area of pharmacy practice.

b. *Fellowship*Ca directed, highly individualized, postgraduate program designed to prepare the participant to become an independent researcher.

4. The intern applicant shall be non-impaired.

a. The applicant may be required to submit to confidential random drug screen testing or evaluations.

b. A positive drug screen test result may be self-evident as proof of improper drug use.

B. Requirements

1. All students and graduates shall be registered with the Board. The failure to register may result in disciplinary action by the Board.

a. The properly completed application shall be submitted no later than the end of the first semester of the first professional year.

b. The Board may issue an Intern Registration/Work Permit to the applicant, upon receipt of a properly completed application and the appropriate fee.

c. The Intern Registration/Work Permit shall expire no later than one year after the date of graduation from an approved college of pharmacy.

d. The Intern Registration/Work Permit shall be posted in the preceptor site.

e. The Board shall reserve the right to refuse to issue or to recall any Intern Registration/Work Permit.

f. In the presence of extraordinary circumstances, an intern may petition the Board, in writing, for an extension of the expiration date of the Intern Registration/Work Permit.

2. While on duty, an intern shall wear appropriate attire and be properly identified with name, status, and college of pharmacy.

C. Practical Experience Hours

1. Interns shall supply by affidavit a minimum of 1500 hours of practice experience in order to apply for pharmacist licensure.

a. Hours shall be listed on a form supplied by the Board, signed by the preceptor and intern, notarized, and submitted to the Board for approval and credit.

i. An intern may receive credit for a maximum of 50 hours per week.

ii. A separate affidavit shall be required from each preceptor site.

b. Hours obtained outside the State of Louisiana shall be certified to the Louisiana Board of Pharmacy by the board of pharmacy in the state in which the hours were obtained. Upon written request by the intern, the Board may certify practical experience hours earned in Louisiana to other boards of pharmacy.

c. For interns enrolled in a B.S. program:

i. at least 600 hours shall be earned in the internship program prior to and as a prerequisite for obtaining a maximum credit of 400 hours for the structured didactic program or demonstration project offered by an approved college of pharmacy;

ii. a minimum of 500 hours shall be earned in the internship program after certification of graduation from an approved college of pharmacy;

iii. all 1500 hours may be earned in the internship program after certification of graduation from an approved college of pharmacy.

d. For interns enrolled in a Pharm.D. program:

i. at least 400 hours of practical experience shall be earned in the internship program as a prerequisite for obtaining a maximum credit of 1100 hours for the structured didactic program of an approved college of pharmacy. A maximum of 200 hours may be earned in a non-permitted pharmacy practice, as defined in LAC 46:LIII.913;

ii. a maximum credit of 1100 hours may be earned upon the satisfactory completion of the structured didactic program or demonstration project offered by an approved college of pharmacy. Of the 1100 hours maximum allowed in the structured program, a minimum of 300 hours shall be earned in community pharmacy practice and a minimum of 300 hours shall be earned in hospital or health-system pharmacy practice;

iii. all 1500 hours of practical experience may be earned in the internship program after certification of graduation from an approved college of pharmacy.

e. An intern shall not work in a permitted site that is on probation or with a pharmacist preceptor who is on probation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2285 (October 2000).

### §705. Preceptor Program

A. Qualifications for Pharmacist Preceptor Applicants

1. The applicant shall be currently licensed and actively practicing for not less than two years prior to the date of application.

2. The applicant shall not be on probation at the time of application.

B. Requirements

1. The applicant shall complete a Board approved preceptor training program.

2. The applicant shall complete an Application for Pharmacist Preceptor Certificate. The Board shall issue a Pharmacist Preceptor Certificate after verification that all requirements have been satisfied.

a. The Pharmacist Preceptor Certificate shall expire five years from the date of issue, and may be renewed upon application to the Board and verification that all requirements have been satisfied.

b. The Board shall reserve the right to refuse to issue or to recall any Pharmacist Preceptor Certificate.

c. The Pharmacist Preceptor Certificate shall be conspicuously displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1202.C.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2285 (October 2000).

**§707. Continuing Education Program**

A. The Board, recognizing that professional competency is a safeguard for the health, safety, and welfare of the public, shall require continuing pharmacy education as a prerequisite for annual licensure renewal for pharmacists.

1. Definitions

*ACPE*CAmerican Council on Pharmaceutical Education

*CPE*CContinuing Pharmacy Education, a structured postgraduate educational program for pharmacists to enhance professional competence.

*CPE Unit*Ca standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to ten credit hours.

2. Requirements

a. A minimum of one and one-half ACPE or Board approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal.

b. Pharmacists shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the Board.

c. When deemed appropriate and necessary by the Board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the Board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

3. Compliance

a. Complete compliance with CPE rules is a prerequisite for pharmacist licensure renewal.

b. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241.A.(2) and shall constitute a basis for the Board to refuse licensure renewal.

c. The failure to maintain an individual record of personal CPE activities, or falsification of CPE documents, shall be considered a violation of R.S. 37:1241.A.(22).

d. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the Board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1210.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2286 (October 2000).

Malcolm J. Broussard, RPh
Executive Director

0010#016

**RULE**

**Department of Health and Hospitals**
**Board of Pharmacy**

Pharmacy Technicians (LAC 46:LIII.Chapter 8)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy amends the rule as it was published in the April 2000 *Louisiana Register*.

**Title 46**
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**
**Part LIII. Pharmacists**

**Chapter 8. Pharmacy Technicians**

**§801. Qualifications**

A. A pharmacy technician trainee (hereinafter referred to as trainee) shall meet the following conditions.

1. AgeCat least 18 years of age, as evidenced by copy of birth certificate.

2. CharacterCgood moral character and be non-impaired.

3. Submit copy of current criminal background check.

4. EducationChigh school graduate or GED equivalent, as evidenced by copy of credential.

5. ExperienceCobtain a minimum of 500 hours practical experience in a pharmacy permitted by the board, as evidenced by signed affidavit.

6. ExaminationCsubmit evidence that trainee has passed a Board approved pharmacy technician examination.

B. Exception. A pharmacist or pharmacist intern whose license has been denied, revoked, suspended, or restricted for disciplinary reasons by any Board of Pharmacy shall not be a trainee or a pharmacy technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2286 (October 2000).

**§803. Experience**

A. Upon receipt of a properly completed application for a Pharmacy Technician Trainee Work Permit, the board shall issue a work permit to the trainee in order to obtain the necessary practical experience.

1. The work permit shall be displayed in the prescription department.

2. The work permit shall expire one year from the effective date.

3. After expiration of an initial work permit, the trainee shall not apply for another work permit for a period of 18 months.

4. A trainee shall notify the board, in writing, within ten days of a change in the mailing and/or home address, giving their name and social security number, as well as old and new addresses.

5. The board shall reserve the right to refuse or recall any work permit for just cause.

B. A trainee shall supply by affidavit evidence of a minimum 500 hours practical experience earned under the direct and immediate supervision of a pharmacist.

1. The ratio of pharmacist to trainee on duty shall not exceed one-to-one.

2. Hours shall be listed on an affidavit supplied by the board, signed by the pharmacist and the trainee, notarized, and submitted to the board for approval and/or credit.

3. A trainee may receive credit for a maximum of 50 hours per week.

4. A trainee shall not obtain hours in a permitted site that is on probation or with a pharmacist who is on probation.

5. A separate affidavit shall be required for each permitted site.

6. Hours submitted on an affidavit shall be valid for not more than one year following the expiration date of the work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2286 (October 2000).

**§805. Examination**

A. A board approved pharmacy technician examination shall consist of integrated subject disciplines, as the board may deem appropriate.

B. A pharmacy technician examination may be offered when necessary as determined by the board.

C. A trainee shall pass a board approved pharmacy technician examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

**§807. Pharmacy Technician Certificate**

A. Upon receipt of a properly completed and notarized application and the appropriate fee, and following verification that all requirements have been satisfied, the board shall issue a pharmacy technician certificate to the trainee.

B. The pharmacy technician certificate shall be displayed in a conspicuous place in the prescription department in such a manner as to be visible to the public. The annual renewal shall be attached or posted next to the pharmacy technician certificate.

C. In the event of loss or destruction of a pharmacy technician certificate, the board may issue a duplicate upon receipt of a properly completed and notarized affidavit and the appropriate fee.

D. The pharmacy technician annual renewal shall expire and become null and void on June 30 of each year.

1. The board shall mail no later than May 1 of each year an application for renewal to all pharmacy technicians.

2. An application for a lapsed pharmacy technician renewal, accompanied by all outstanding fees, shall be referred to the board's reinstatement committee for consideration.

E. A pharmacy technician shall notify the board, in writing, within ten days of any change in mailing and/or home address, giving their name and certificate number, as well as old and new addresses.

F. A pharmacy technician shall notify the board, in writing, within ten days of a change in employment, listing the name, address, and permit numbers of old and new employment pharmacies, as well as their name and certificate number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

**§809. Continuing Education**

A. A minimum of one ACPE or board approved CPE unit, or ten hours, shall be required each year as a prerequisite for annual renewal.

B. Certified pharmacy technicians shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the board.

C. If judged appropriate by the board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the board shall notify all pharmacy technicians prior to the beginning of the year in which the CPE is required.

D. Complete compliance with CPE rules is a prerequisite for renewal of a pharmacy technician certificate.

1. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241.A.(2), and shall constitute a basis for the board to refuse annual renewal.

2. The failure to maintain an individual record of personal CPE activities or falsifying CPE documents shall be considered a violation of R.S. 37:1241.A.(22).

3. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

**§811. Impaired Pharmacy Technician**

A. An impaired pharmacy technician is one who suffers from a condition that may cause an infringement on the ability to work safely or accurately. The impairment may be caused by, but not limited to, the following factors: substance abuse or addiction, mental illness, physical illness or injury.

B. The board may require an impaired pharmacy technician to comply with the Louisiana Board of Pharmacy Recovery Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

**§813. Implementation**

A. This chapter shall become effective December 1, 2000.

B. All trainee work permits issued on or before November 30, 2000 shall expire on December 31, 2000.

C. On December 1, 2000, trainees who are in need of additional practical experience to meet the requirement of 500 hours may apply for one new work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2287 (October 2000).

Malcolm J. Broussard, RPh
Executive Director

0010#017

**RULE**

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

Sanitary CodeCWater Supplies (LAC 51:XI.12:001)

Editor's Note: This rule is being repromulgated in its entirety to correct an error. The original rule may be viewed in the August 20, 2000 edition of the *Louisiana Register* on pages 1624-1625.

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) hereby amends Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

The first amendment is specifically necessary due to a federal rule promulgated by USEPA in the *Federal Register* dated August 19, 1998 (Volume 63, Number 160, pages 44526 through 44536), which is entitled "National Primary Drinking Water Regulations: Consumer Confidence Reports; Final Rule". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996). The reason for this amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which will require all community water systems [public water systems (PWSs) which provide water to year-round residents, such as systems serving subdivisions, mobile home parks, municipalities, etc.] to provide to their consumers an annual report on the quality of the drinking water supplied to them. This report is termed the annual Consumer Confidence Report. DHH-OPH adopts this rule by reference.

The second amendment is due to a federal rule promulgated by USEPA in the *Federal Register* dated August 14, 1998 (Volume 63, Number 157, pages 43846 through 43851), which is entitled "Revision of Existing Variance and Exemption Regulations To Comply With Requirements of the Safe Drinking Water Act; Final Rule". This federal rule was also promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996). The reason for this amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which authorizes the State Health Officer to issue variances to small PWSs (serving less than 10,000 individuals) under USEPA's new small system variance criteria. This rule is intended to provide a mechanism for small PWSs to be able to obtain regulatory relief for some regulated contaminants under certain conditions, including, but not limited to, an affordability criterion. Variances generally allow a PWS to provide drinking water that may be above the maximum contaminant level (MCL) on the condition that the quality of the drinking water is still protective of public health. The duration of small PWS variances generally coincides with the life of the technology; however, DHH-OPH is required under federal rule to review each small PWS variance it issues at least every five years after the compliance date established in the small PWS variance itself. The review consists of whether the PWS continues to meet the eligibility criteria for such variance and is complying with the terms and conditions of the small PWS variance itself. A small PWS variance is not available for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant. DHH-OPH also adopts this rule by reference.

The Consumer Confidence Report portion of the rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accordance with R.S. 49:972(B)(6) local governmental units may be affected if they own or operate a community water system. Local governmental units owning or operating a community water system are already subject to the requirements of the federal Consumer Confidence Report rule and were required to provide their first Consumer Confidence Report (covering calendar year 1998) to their consumers by October 19, 1999. The second annual Consumer Confidence Report (covering calendar year 1999) was required by federal rule to be provided to consumers no later than July 1, 2000. Community water systems are required to provide a Consumer Confidence Report to consumers no later than July 1 of each of the years following.

The small PWS variance portion of the rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accordance with R.S. 49:972(B)(6) local governmental units may be positively affected if they own or operate a small PWS and become eligible for a small PWS variance. Local governmental units owning or operating a small PWS which cannot, among other criteria, afford to comply [either by treatment, alternative sources of water supply, restructuring or consolidation changes (including ownership change and /or physical consolidation with another PWS), or obtaining financial assistance pursuant to Louisiana's Drinking Water Revolving Loan Fund program or any other federal or state program] in accordance with affordability criteria established by DHH-OPH may potentially be able to obtain a small PWS variance and, in essence, obtain some regulatory relief for some regulated contaminants. Of course, there are other criteria, unrelated to affordability, which must also be met before any small PWS variance will be granted.

For the reasons set forth above, Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is amended as follows.

**Title 51**
**PUBLIC HEALTHCSANITARY CODE**
**Chapter XII. Sanitary CodeCWater Supplies**

**12:001 Definitions**

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

* * *

*National Primary Drinking Water Regulations*Cregulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act", 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1999 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

a.) Subpart H - Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75),

b.) Subpart L - Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (40 CFR 141.130 through 141.135),

c.) Subpart M - Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144), and

d.) Subpart P - Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), LR 15:969 (November 1989), LR 17:781 (August 1991), LR 20:545 (May 1994), LR 26:1037 (May 2000), repromulgated LR 26:1275 (June 2000), amended LR 26:1625 (August 2000), repromulgated LR 26:2289 (October 2000).

**12:002-6** Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer in accordance with Sections 1415 and 1416 of the federal Safe Drinking Water Act and subpart K (Variances for Small System) of 40 CFR part 142. The owner of the public water supply which receives a variance and/or exemption shall fully and timely comply with the all the terms and conditions of any compliance and/or implementation schedule specified by the State Health Officer in conjunction with the issuance of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), repromulgated LR 26:1039 (May 2000), LR 26:1277 (June 2000), amended LR 26:1625 (August 2000), repromulgated LR 26:2289 (October 2000).

David W. Hood
Secretary

0010#028

**RULE**

**Department of Health and Hospitals**
**Office of the Secretary**

Bureau of Health Services Financing
Substance Abuse ClinicsCMedicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood
Secretary

0010#091

**RULE**

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

Sanitary CodeCChapter XIII (Sewage Disposal)

In accordance with provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Section 13:011-3 of Chapter XIII (Sewage Disposal) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as amended

by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942. Predominantly, the amendment to this portion of the Louisiana Sanitary Code is necessary in order to comply with the requirements of Act 505 of the 1995 Regular Session of the Legislature. Act 505 mandated installation of effluent reduction systems following approved individual sewerage systems up through 1,500 gpd capacity, and gave the Department of Health and Hospitals authority to require such effluent reduction systems. Chapter XIII of the Louisiana Sanitary Code is proposed to be amended as follows:

Insert Section 13:011-3 to read as follows:

**13:011-3** Effective October 20, 2000, this rule applies to new individual sewerage system installations, upgrades and/or modifications to existing systems required as a result of an investigation by the Office of Public Health (OPH) into an allegation that a violation of Chapter XIII of the Louisiana Sanitary Code has occurred or is occurring, and has the potential for causing harm or creating a nuisance to the general public (R.S. 46:5 Section 1:001). Such individual sewerage systems with a capacity up to and including 1,500 gpd, that produce treated effluent, and which, by design, do not significantly reduce the amount of off-site effluent, shall be followed by an effluent reduction system constructed as described in Section IX of Appendix A of this Chapter.

**IX. Effluent Reduction System Requirements For Treated Wastewater**

**A:9.1 Disinfectants**

Where effluent discharges are required to be disinfected, and chlorine is used as the disinfectant, a chlorine contact chamber is required. Calcium hypochlorite, labeled for wastewater disinfection, shall be added in sufficient concentrations to maintain a minimum residual of 0.5 ppm total chlorine in the effluent. In order to achieve the required chlorine contact time, a baffled chlorine contact chamber (Figure 11, Figure 12) designed to meet the needs for each system with the specified liquid holding capacity shall be used as follows:

| Disinfectant Chamber Minimum Liquid Capacity | |
|---|---|
| **Treatment Capacity Of Sewerage System** | **Contact Chamber Liquid Capacity** |
| 500 gpd or less | 30 Gallons |
| 501 - 750 gpd | 45 Gallons |
| 751 - 1000 gpd | 60 Gallons |
| 1001 - 1500 gpd | 90 Gallons |

Any other disinfectant proposed for use should provide an equivalent level of disinfection.

**A:9.2** Pumping Stations. Pumping station, when required, must be constructed of approved materials, and must comply with the applicable provisions of this Code.

**A:9.3** Effluent Reduction Systems. Individual sewage systems, with a capacity up to and including 1,500 gpd, that produce a treated, off-site effluent, shall include an effluent reducer as part of the overall system (Figure 14).

**A:9.4** Special situations may arise where an individual onBsite wastewater treatment system is allowed as per paragraph 13:011-2 of this Code, but it is physically impossible to install the required size of the effluent reduction system or the effluent reduction system itself due to lot size or when a limited use sewerage system is installed in a marsh/swamp area or located over water. The size of the effluent reduction system can be reduced to the maximum amount the lot can accommodate or the installation waived with the authorization of the Sanitarian Parish Manager. Written notification of such authorization must be submitted to the Sanitarian Regional Director and a copy attached to the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47).

**A:9.5** All effluent reduction systems shall be installed by a licensed installer. Existing field lines can not be used as the effluent reduction system.

**A:9.6** The size of the effluent reduction system installed has to correspond with the recommended size of the sewerage system. For example if a 750 gpd plant is required on the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47), the applicant may install a 1,000 gpd plant, however the size of the effluent reduction system only has to correspond to the minimum size required for a 750 gpd plant.

**A:9.7** The sample port for a sewerage system must be installed immediately downstream of the system and in accordance with the appropriate edition and section of NSF Standard 40, as currently promulgated, as well as the applicable provisions of this Code.

**Effluent Reduction Options**

**A:9.8-1 Effluent Reduction Field**

This system is installed downstream of a mechanical treatment plant or other sewage treatment system listed in Appendix A of this Code that produces an effluent, but does not by design significantly reduce that effluent. The effluent reduction field is essentially a soil absorption field as described in Section 3 of this Appendix, but with modification as noted in this Section. Figure 15 has a diagram with specifications and cross-sections of the Effluent Reduction Field.

**A:9.8-2** If there is not sufficient grade to install the sewerage system and the Effluent Reduction Field with gravity flow to the discharge point, then a pump station in compliance with applicable provision of this Code must be installed.

**A:9.8-3** The force of the pumped effluent must be reduced by use of a distribution box, "Tee", or similar appurtenance.

**A:9.8-4** The Effluent Reduction Field trenches shall be at least 18 inches wide and between 16 to 24 inches in depth.

**A:9.8-5** The bottom of the Effluent Reduction Field must be level.

**A:9.8-6** The fill or cover material shall be of porous soil or sand which allows the passage of water in all directions, with sod started on top. Fill should be at least 4 to 6 inches above grade and spread at least three to four feet on either side of the trench.

**A:9.8-7** The Effluent Reduction Field must be installed a minimum of ten feet from any property line. In addition the ERF field location shall comply with the minimum distance requirements from water wells and suction lines, etc., as contained in Chapter 12 of this Code.

**A:9.8-8** The minimum length of the Effluent Reduction Field shall be determined by the treatment capacity of the Sewerage System:

| Treatment Capacity of Sewerage System | Minimum Total Length Per Field |
|---|---|
| 500 gpd or less | 100 FT |
| 501 - 750 gpd | 150 FT |
| 751 - 1000 gpd | 200 FT |
| 1001 - 1500 gpd | 300 FT |

**A:9.8-9** If more than one absorption trench is used to provide the minimum required length of the effluent reduction field, the distance between individual trenches must be at least six feet with one discharge pipe provided.

**A:9.8-10** The pipe from the end of the Effluent Reduction Field to the discharge point must be solid.

**A:9.8-11** A check valve must be provided at the end of the effluent reduction field whenever the discharge line is less than 12 inches above the ditch flow-line.

**A:9.8-12** Each individual trench must not be greater than 100 feet in length. Clam or oyster shells may be substituted for gravel in the Effluent Reduction Field. If used, gravel must be clean, graded and 2-inch to 22 inches in diameter. Other media may be considered for use if determined to have acceptable characteristics and properties.

**A:9.8-13** Gravelless pipe or other distribution chambers may be used in lieu of conventional soil absorption pipe. If gravelless pipe is used, the fill must be porous soil or sand which allows the passage of water in all directions, with a 6-inch layer below the pipe and filled 4 to 6 inches above grade and spread 3 to 4 feet on either side of the trench.

**A:9.9-1 Rock-Plant Filter**

All rock plant filters must be a minimum of five feet wide to a maximum of ten feet wide.

**A:9.9-2** The square footage will be determined by the treatment capacity of the Sewerage System as follows:

| Treatment Capacity of Sewerage System | Rock Plant Filter Size |
|---|---|
| 500 gpd or less | 150 square feet |
| 501 - 750 gpd | 225 square feet |
| 751 - 1000 gpd | 300 square feet |
| 1001 - 1500 gpd | 450 square feet |

Refer to Figure 16 for a schematic and cross section of a rock plant filter with a sewerage system installation.

**A:9.9-3** The rock plant filter must be installed a minimum of ten feet from any property line. In addition, the RPF location shall comply with the minimum distance requirements from water wells and suction lines, etc., as contained in Chapter 12 of this Code.

**A:9.9-4** If there is not sufficient grade to install the sewerage system and the Rock Plant Filter with gravity flow to the discharge point, then a pumping station in compliance with applicable provisions of this Code must be installed.

**A:9.9-5** In order to prevent backflow, a check valve is required whenever the discharge line is less than 12 inches above the ditch flow-line.

**A:9.9-6** Only a standard shape bed may be installed with a minimum width of five feet and of such length as to provide the required square footage.

**A:9.9-7** Plans for any other configuration must be submitted for review and approval to the Sanitarian Regional Director.

**A:9.9-8** A liner will be required when the ground water level is within 24 inches of the bottom of the trench.

**A:9.9-9** The polyethylene liner may be of more than one layer provided a total thickness of 16 mil is achieved.

**A:9.9-10** When a liner is not required, the use of landscape fabric is highly recommended to prevent weed intrusion.

**A:9.9-11** The bottom of the bed must be level and be no deeper than 14 inches.

**A:9.9-12** A depth of approximately 10 to 12 inches is best.

**A:9.9-13** Gravel must be 2-3 inches in diameter and laid to a depth of 12 inches.

**A:9.9-14** An 8-inch water level must be maintained. Gravel should fill the filter bed to above surface grade to prevent erosion.

**A:9.9-15** The minimum four-inch perforated inlet pipe must be located no closer than 4 inches from the bottom of the bed and supported by a footing of noncorrosive material, such as concrete or treated timber.

**A:9.9-16** The inlet should extend no more than two feet into the rock plant bed and must be provided with a "Tee" (with ends capped) extending the width of the bed to within one foot of the side walls.

**A:9.9-17** The outlet pipe shall also be set in a footing of noncorrosive material (concrete or treated timber) on the bottom of the bed with the same "Tee" and configuration. The outlet must be elbowed up and out (Figure 17).

**A:9.9-18** Do not allow plants to grow within three feet of the inlet and outlet of the bed.

**A:9.9-19** A levee support system around the perimeter of the filter should be constructed to exclude surface water. The use of landscape timbers for this purpose is acceptable. Other materials, such as concrete, can also be used.

**A:9.10-1 Spray Irrigation**

The spray irrigation system (Figure 18) uses an electric pump that distributes the effluent to the yard through sprinkler heads. The effluent from the treatment system collects in a pumping chamber. At a predetermined level, a float switch activates a pump that forces the effluent through piping to pop-up or elevated rotating type sprinkler heads. Evaporation and soil infiltration of the dispersed effluent should prevent any run-off from occurring.

**A:9.10-2** A pump station system must be sized according to use and comply with the applicable provisions of this Code.

**A:9.10-3** The pressure pump must be a minimum of 1/2 horsepower capable of producing a minimum flow of 12 gallons per minute and maintaining 25 psi at all sprinkler heads.

**A:9.10-4** The pump will be activated by a high/low water switch through a manual on/off switch. The pump must be deactivated through a low-volume cut off.

**A:9.10-5** A time cycle device may be used to allow for specific sprinkling times (e.g., nighttime, afternoon). The pump chamber must be of adequate liquid capacity to allow sufficient storage to accommodate the desired time settings.

**A:9.10-6** A minimum of three 4-inch type heads coded for wastewater effluent, spaced a minimum of 40 feet apart are required.

**A:9.10-7** The spray irrigation sprinklers shall comply with American Society of Agricultural Engineers (ASAE) Standard S 398.1 (Procedure for Sprinkler Testing and Performance Reporting).

**A:9.10-8** The edge of the spray must be a minimum of 50 feet from the nearest well and 10 feet from any property line. The slope of the land must be such as to facilitate drainage away from the well. In addition, the edge of the spray shall comply with the minimum distance requirements for water wells, lines, etc., as contained in Chapter 12 of this Code.

**A:9.10-9** Exceptions due to lot size, topography or other constraints may be authorized by the Sanitarian Parish Manager with written notification of such authorization to the Sanitarian Regional Director and a copy attached to the LHS-47.

**A:9.11-1 Overland Flow**

When the size of the property is 3 acres or more, an overland flow may be utilized (Figure 19).

**A:9.11-2** The discharge through perforated pipe must be distributed in such a manner as to confine the effluent on the property owned by the generator.

**A:9.11-3** The location of the overland discharge must have a permanent vegetative cover.

**A:9.11-4** The discharge point and the field of flow must be a minimum of 50 feet from the nearest well and the slope of the land must be such as to facilitate drainage away from the well. In addition, the discharge point and the field of flow shall comply with the minimum distance requirements from water wells, lines, etc., as contained in Chapter 12 of this Code.

**A:9.11-5** A header should be used at the end of the discharge line to help disperse the effluent and to discourage channelization. The point of discharge must be such that there is at least a 200-foot flow of effluent over the property of the generator.

**A:9.11-6** Construction of the system should be such that it is not closer than 20 feet from the property line.

**A:9.12 Mound System or Subsurface Drip Disposal (Figure 20; Figure 21)**

Either can be considered by DHH-OPH on a case to case basis. Plans and specifications must be submitted to DHH-OPH Engineering Services in consultation with the Sanitarian Regional Director for review and approval prior to construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Office of Public Health, LR 10:802 (October 1984); LR 11:1086 (November 1985); amended by the Department of Health and Hospitals, Office of Public Health, LR 19:49 (January 1993); LR 26:2289 (October 2000).

# CHLORINATOR

## STACK FEED CHLORINATORS

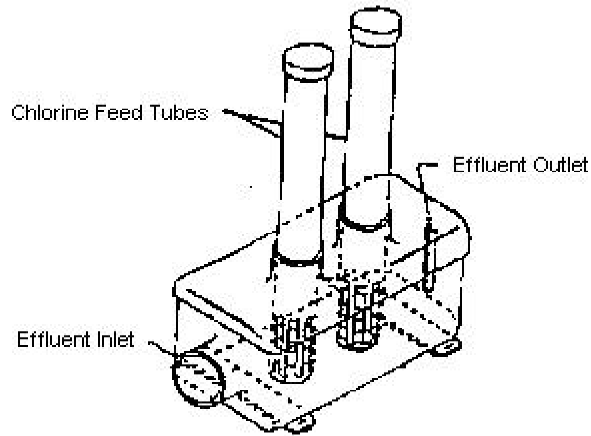



Figure 11

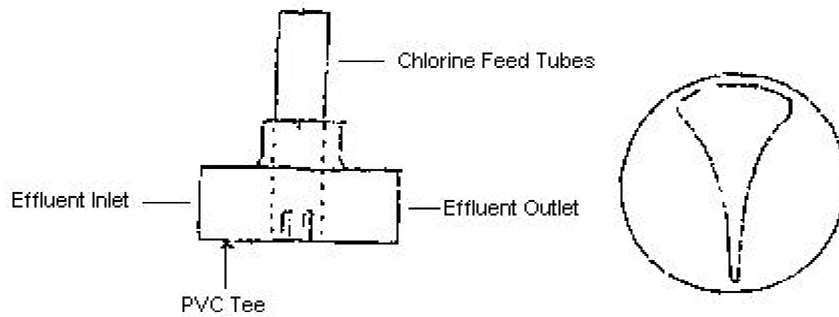



Figure 12

Figure 13

Chlorinators can be purchased premanufactured (as in Figure 11), or can be constructed onsite using the following minimum criteria - (Figure 12) Use a four-inch minimum PVC Tee with a restrictive insert (see Figure 13) to control the effluent flow. This allows the tablets to be contacted by the effluent in proportion to the amount of flow. The insert is cemented onto the PVC Tee with the restriction pointing down.

# EFFLUENT REDUCTION TANKAGE

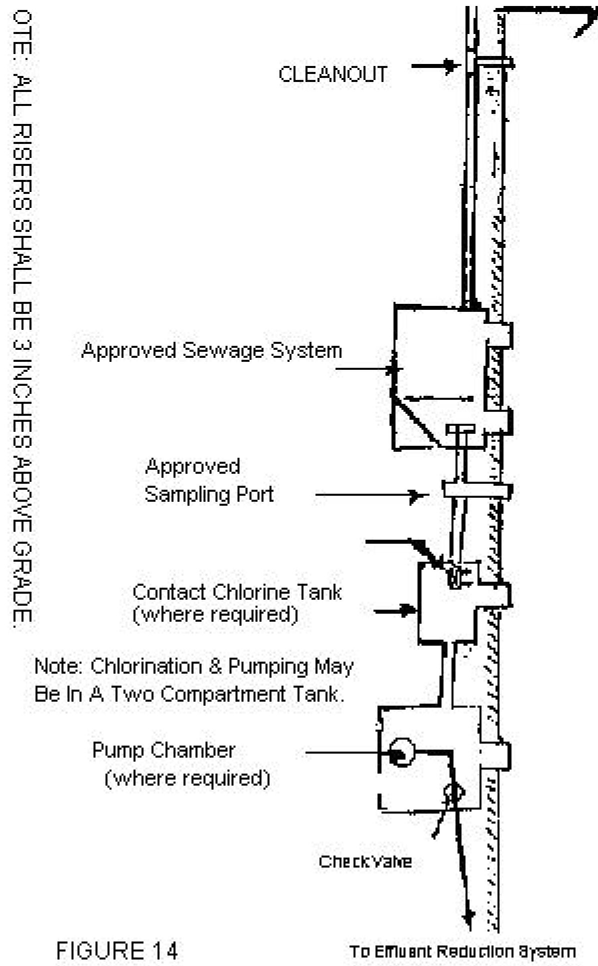



FIGURE 14

# EFFLUENT REDUCTION FIELD

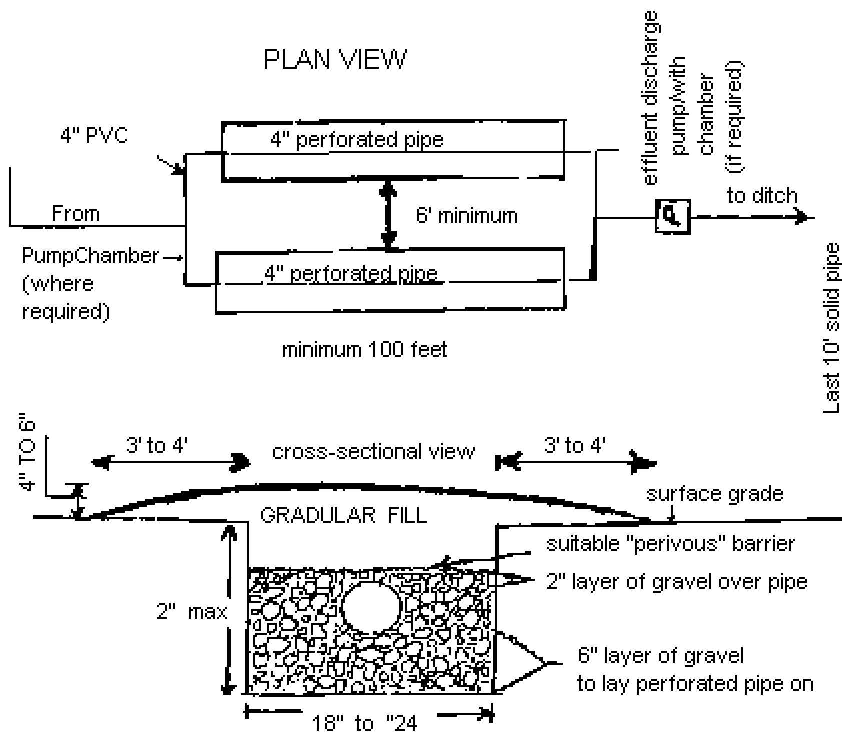



Figure 15

# ROCK PLANT

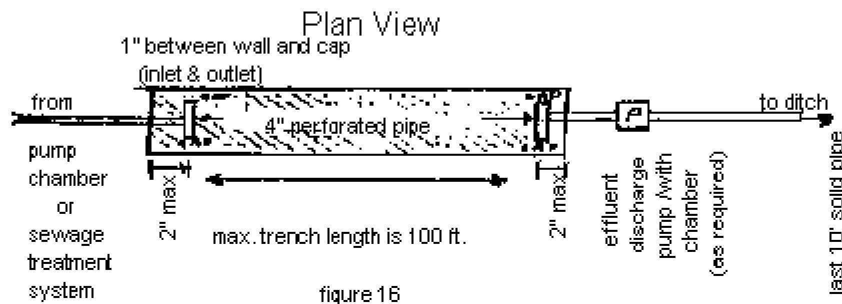



figure 16

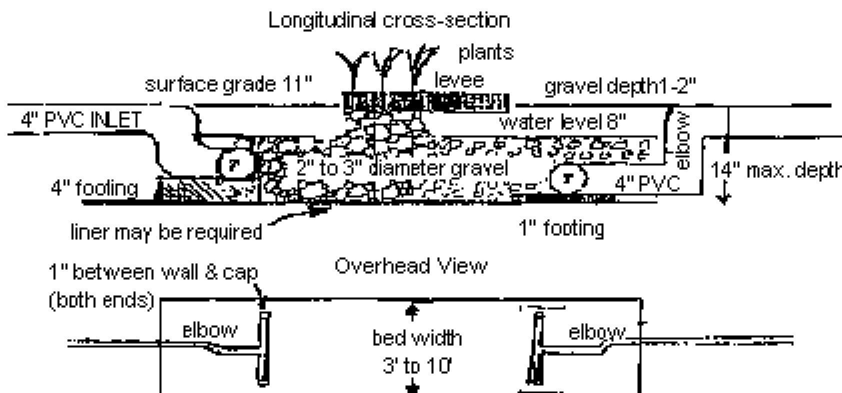



figure 17

## SPRAY IRRIGATION SCHEMATIC

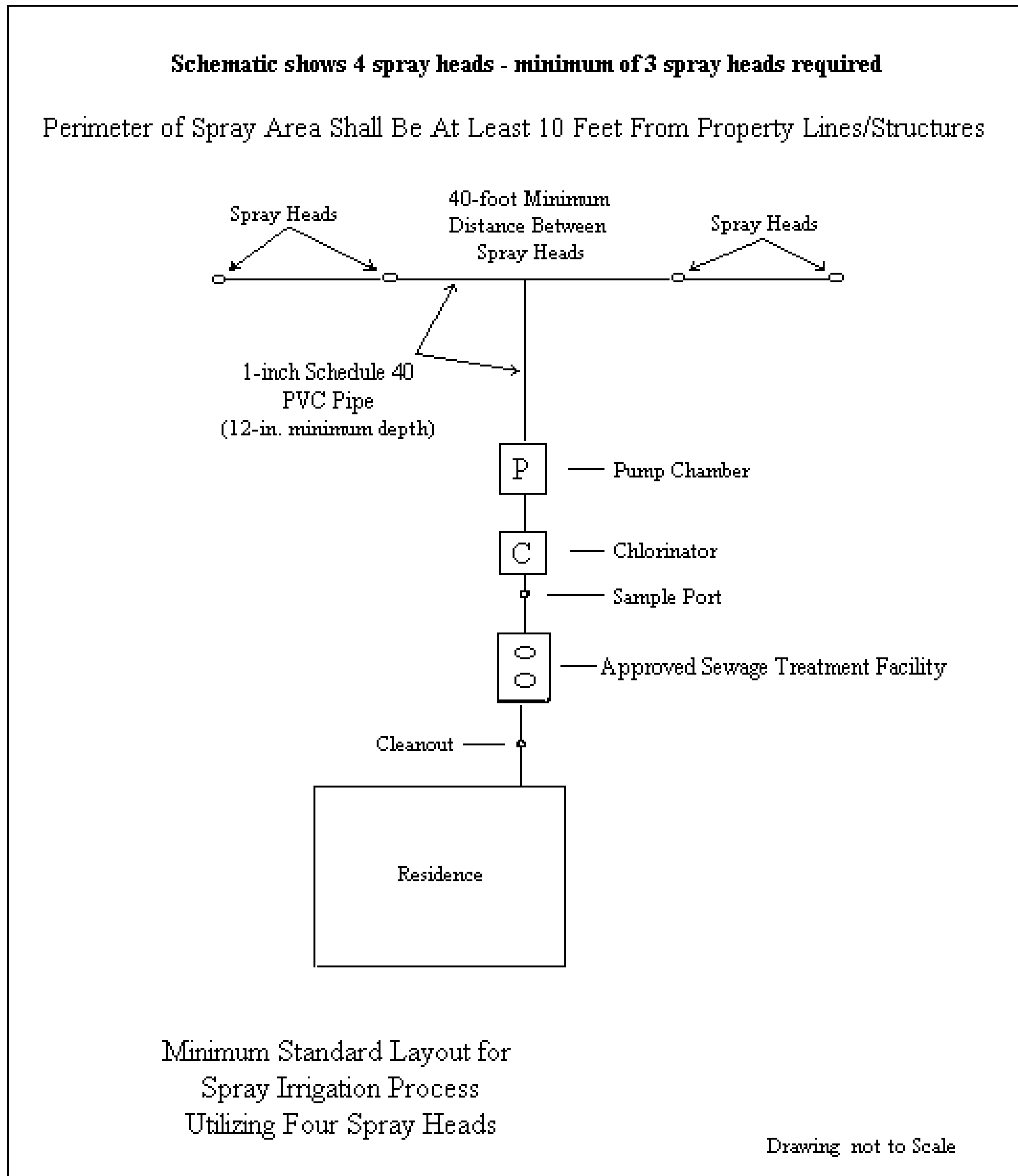



Figure 18

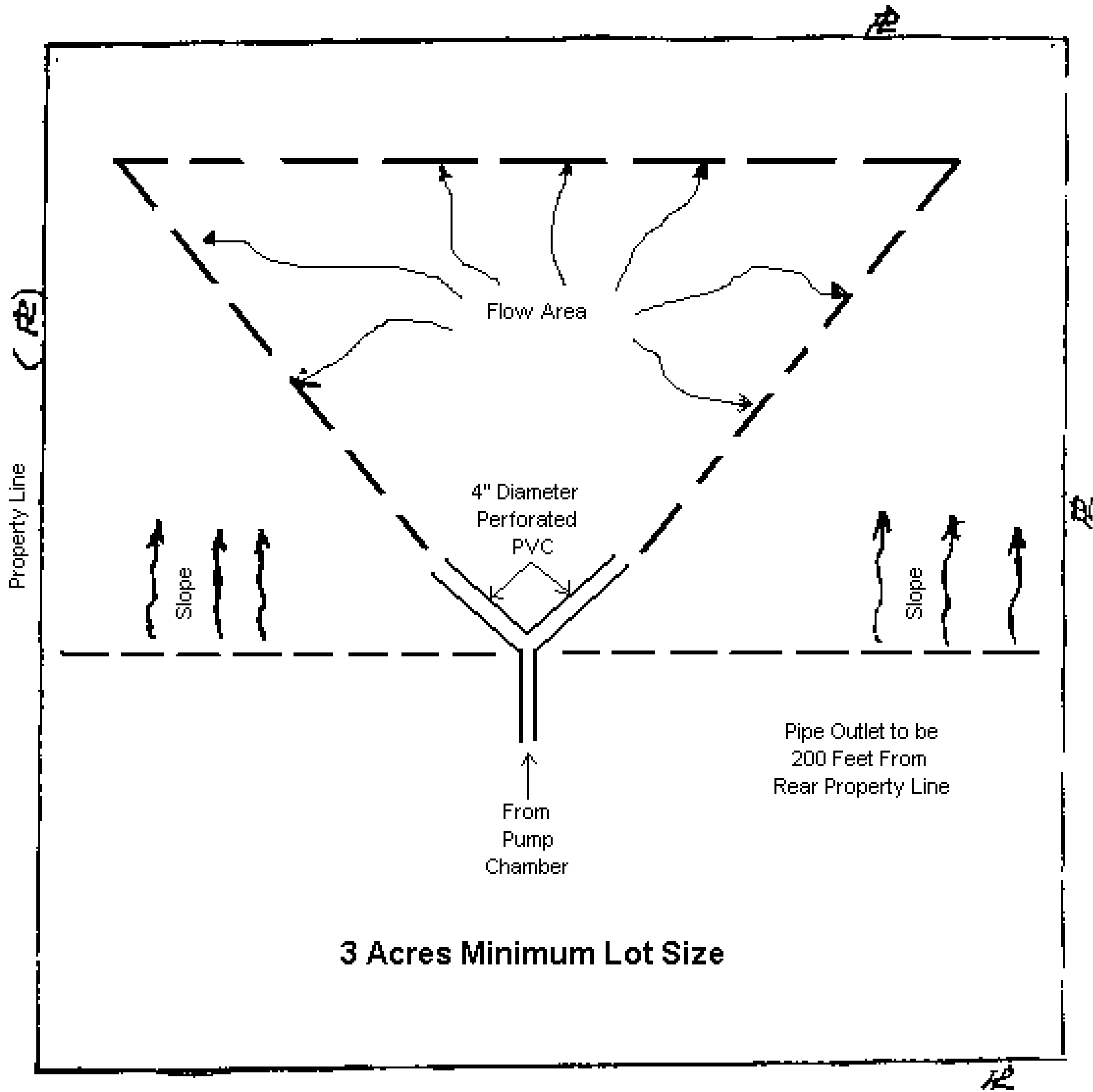
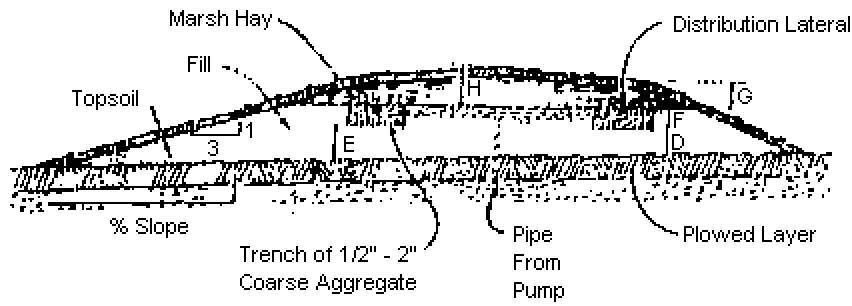
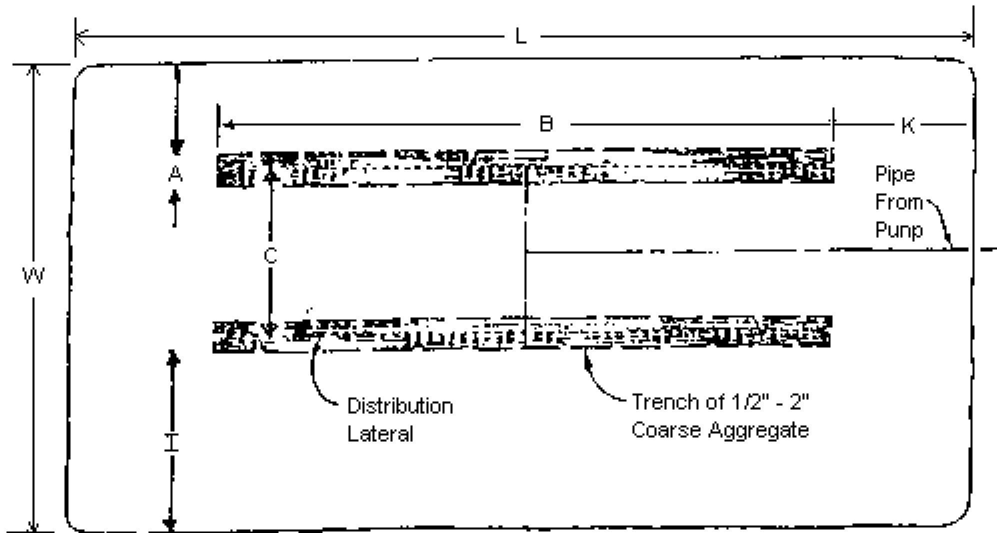



Figure 19

# MOUNDS




**Cross Section of Mound System Using 2 Trenches for Absorption Area**




**Plan View of Mound System Using 2 Trenches for Absorption Area**

**Figure 20**

NOTE: MUST BE APPROVED BY OPH - ENGINEERING SERVICES
IN CONSULTATION WITH SANITARIAN REGIONAL DIRECTOR

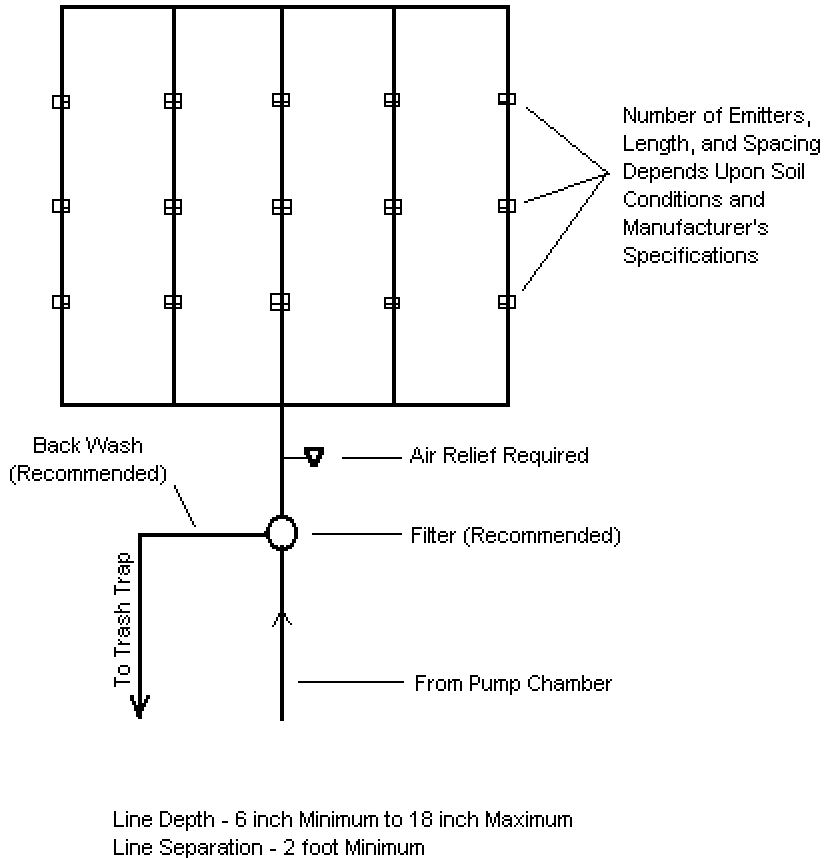



**Figure 21**

Copies of the proposed rule (including accompanying drawings) are available for public review at the Office of State Register, 1051 North Third Street, Baton Rouge, Louisiana 70802, (225) 342-5015, and at the following Office of Public Health offices during normal business hours: 6867 Bluebonnet Boulevard, Baton Rouge, LA; 1500 Lee Street, Alexandria, LA; 1772 Wooddale Boulevard, Baton Rouge, LA; 1525 Fairfield Avenue, Room 569, Shreveport, LA; 206 East Third Street, Thibodaux, LA; 2913 Betin Street, Monroe, LA; 825 Kaliste Saloom Road, Suite 100, Lafayette, LA; 520 Old Spanish Trail, Slidell, LA; 4240 Senator J. Bennett Johnston Avenue, Lake Charles, LA.

David W. Hood
Secretary

0010#094

## RULE

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

Durable Medical Equipment Program
Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for durable medical equipment and supply items. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood
Secretary

0010#087

## RULE

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

Hemodialysis Centers—Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq

**Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for hemodialysis center services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood
Secretary

0010#088

## RULE

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

Nursing Facilities—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act.

**Rule**

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

A. Reimbursement Methodology. Reimbursement for SN/ID and SN/TDC services shall be set at the rate paid for skilled nursing level of care plus a prospective statewide enhancement to ensure reasonable access to appropriate services. The enhancement shall be based on average allowable incremental costs of all acceptable cost reports for the year on which the rates are based and in accordance with

guidelines for allowable incremental costs and inflated forward to reflect current costs. In addition, the following requirements must be met.

1. The facility must have a valid Title XIX provider agreement for provision of nursing facility services;

2. The facility must be licensed to provide nursing facility services; and

3. The facility must have entered into a separate contractual agreement with the Bureau to provide SN/ID and/or SN/TDC services in accordance with standards for the care of individuals with infectious diseases or technological dependency and meet all applicable staffing and services requirements.

B. Allowable Incremental Costs for SN/ID

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

a. A minimum of 4.0 nursing hours per patient day for infectious disease residents is required. Costs for direct patient care in excess of 9.6 hours per patient day are not allowable on the SN/ID supplemental cost report;

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

2. Other Direct Care Services are based on demonstrated appropriate services including the following.

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

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

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

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

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

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

C. Allowable Incremental Costs for SN/TDC.

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

a. a minimum of 4.5 nursing hours per patient day for technology dependent care residents is required. Costs for direct patient care in excess of 9.6 hours per patient day are not allowable on the SN/TDC supplemental cost report;

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

2. Other Direct Care Services are based on demonstrated appropriate services including the following:

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

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

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

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

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

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

Facilities shall submit cost reports at the end of each 12 month period. Providers shall be required to segregate SN/ID or SN/TDC costs from other long term care costs and to submit a supplemental cost report which shall be subject to audit. No duplication of costs shall be allowed and allowable costs shall be in accordance with Medicare cost principles.

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

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

David W. Hood
Secretary

0010#090

## RULE

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

Professional ServicesCMedicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes indicated on Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, Medicare Part B claims for the professional component of hemodialysis and transplant services are excluded from this limitation to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood
Secretary

0010#089

## RULE

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

Sanitary CodeCChapter XIII (Sewage Disposal)

In accordance with provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Paragraph 6.5 of Appendix A of Chapter XIII (Sewage Disposal) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as amended by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942.

Paragraph 6.5 of Appendix A of Chapter XIII (Sewage Disposal) of the Louisiana Sanitary Code is revised to read as follows:

**A:6.5** All individual mechanical plants currently approved for installation in Louisiana as of the effective date of these regulations shall not be required to meet the requirements of paragraph 6.4 until March 1, 2001. Until March 1, 2001, plants shall continue to comply with the standards under which they were approved. Effective March 1, 2001, all plants shall comply with the standard as stated in paragraph 6.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Office of Public Health, LR 10:802 (October 1984); amended by the Department of Health and Hospitals, Office of Public Health, LR 19:49 (January 1993); LR 25:49 (January 1999); LR 25:2408 (December 1999), LR 26:2302 (October 2000).

David W. Hood
Secretary

0010#096

## 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 hereby proposes to amend the established fees.

**Title 43**
**NATURAL RESOURCES**
**Part XIX. Office of Conservation - General Operations**
**Subpart 2. Statewide Order No. 29-R-00/01**

**Chapter 7. Fees**

**§701. Definitions**

*Application Fee*Can amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation. The total revenue collected from the application fees shall not exceed $2,250,000 for Fiscal Year 2000-2001 and thereafter.

*Application for Automatic Custody Transfer*Can application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq.), or successor regulations.

*Application for Commercial Class I Injection Well*Can application to construct a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

*Application for Commercial Class I Injection Well (Additional Wells)*Can application to construct additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

*Application for Commercial Class II Injection Well*Can application to construct a commercial Class II or Class V injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.129 et seq.) or Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), or successor regulations.

*Application for Commercial Class II Injection Well (Additional Wells)*Can application to construct additional Class II or Class V injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.129 et seq.), or successor regulations.

*Application for Multiple Completion*Can application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:1301 et seq.), or successor regulations.

*Application for Noncommercial Injection Well*Can application to construct a Class I, II, III, or V noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.129 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), and 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

*Application for Permit to Drill (Minerals)* Can application to drill in search of minerals, as authorized by La. R.S. 30:28.

*Application for Public Hearing*Can application for a public hearing as authorized by R.S. 30:1, et. seq..

*Application for Substitute Unit Well*Can application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

*Application for Surface Mining Development Operations Permit*Can application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

*Application for Surface Mining Exploration Permit*Can application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

*Application for Surface Mining Permit*Can application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

*Application for Unit Termination*Can application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

*Application for Well Classification (NAPA)*Can application requesting the classification of a well, as authorized by Section 503 of the Natural Gas Policy Act of 1978.

*Application to Amend Permit to Drill (Injection or Other)*Can application to alter, amend, or change a permit to drill an injection, or other well after its initial issuance, as authorized by R.S. 30:21.

*Application to Amend Permit to Drill (Minerals)* Can application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by La. R.S. 30:28.A.*

*Application to *Amend Operator* (transfer of ownership) for any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the application fee provided herein.

*Application to Commingle*Can application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq. and LAC 43:XIX.1700 et seq.), or successor regulations.

*Application to Process Form R-4*Capplication for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

*Application to Renew Permit to Drill (Injection or Other)*Can application to renew a permit to drill an injection, or other well, as authorized by R.S. 30:21.

*Application to Renew Permit to Drill (Minerals)*Can application to renew a permit to drill for minerals, as authorized by R.S. 30:28.B.

*BOE*Cannual barrels oil equivalent. Gas production is converted to BE by dividing annual mcf by a factor of 7.

*Capable Gas*Cnatural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

*Capable Oil*Ccrude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

*Class I Well*Ca Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 (LAC 43:XVII.101 et seq.) or 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

*Class I Well Fee*Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed $400,000 for Fiscal Year 2000-2001 and thereafter.

*Class II Well*Ca Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in 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 III Well*Ca Class III injection well which injects for extraction of minerals or energy.

*Emergency Clearance*Cemergency authorization to transport oil from lease.

*Production Fee*Can 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 on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed $2,250,000 for Fiscal Year 2000 - 2001 and thereafter. Incapable oil,

stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

*Production Well*Cany well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells certified by the Severance Tax Division of the Department of Revenue and Taxation.

*Regulatory Fee*Can amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed $875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of $105. Such payment is due within the time frame prescribed by the Office of Conservation.

*Type A Facility*Ccommercial oilfield waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.129 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

*Type B Facility*Ccommercial oilfield waste disposal facilities within the State that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.129 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted 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), LR 26:2302 (October 2000).

### §703. Fee Schedule for Fiscal Year 2000-2001

| A. Application Fees | Amount |
|---|---|
| Application for Unit Determination | $ 233 |
| Application for Substitute Unit Well | $ 233 |
| Application for Public Hearing | $ 700 |
| Application for Multiple Completion | $ 233 |
| Application to Commingle | $ 233 |
| Application for Automatic Custody Transfer | $ 233 |
| Application for Noncommercial Injection Well | $ 233 |
| Application for Commercial Class I Injection Well | $1,165 |
| Application for Commercial Class I injection Well (Additional Wells) | $ 582 |
| Application for Commercial Class II Injection Well | $ 582 |
| Application for Commercial Class II Injection Well (Additional Wells) | $ 290 |
| Application for Permit to Drill - Minerals: 0' - 3,000' | $ 117 |
| Application for Permit to Drill - Minerals: 3,001' - 10,000' | $ 582 |
| Application for Permit to Drill - Minerals: 10,001' + | $1,165 |
| Drill Minerals Deeper (> 3,000') | $ 466 |
| Drill Minerals Deeper (> 10,000') | $ 582 |
| Application to Amend Permit to Drill - Minerals | $ 117 |
| Application to Amend Permit to Drill - Injection or Other | $ 117 |
| Application for Surface Mining Exploration Permit | $ 60 |
| Application for Surface Mining Development Operations Permit | $ 87 |
| Application for Surface Mining Permit | $2,039 |
| Application to Process Form R-4 | $ 34 |
| Application to Reinstate Suspended Form R-4 | $ 60 |
| Application for Emergency Clearance Form R-4 | $ 60 |

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of $5,650 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of $2,825 per facility.

3. Operators of record of permitted Class II injection/disposal wells are required to pay $ 550 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay $ 550 per well.

C. Class I Well Fees. Operators of permitted Class I wells are required to pay $9,090 per well.

D. 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 | 13 |
| Tier 2 | 1 - 5,000 | 67 |
| Tier 3 | 5,001 - 15,000 | 190 |
| Tier 4 | 15,001 - 30,000 | 318 |
| Tier 5 | 30,001 - 60,000 | 508 |
| Tier 6 | 60,001 - 110,000 | 699 |
| Tier 7 | 110,001 - 9,999,999 | 857 |

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), LR 26:2304 (October 2000).

### §705. Failure to Comply

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 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), LR 26:2304 (October 2000).

**§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-00/01, and if any such individual fee is held to be unacceptable, pursuant to 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-00/01) supercedes Statewide Order No. 29-R-99/00.

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 21:21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000).

Philip N. Asprodites
Commissioner of Conservation

0001#064

**RULE**

**Office of Public Safety and Corrections**
**Gaming Control Board**

Accounting Regulations; Internal Controls, Slots
(LAC 42:VII.2723, IX.2723 and XIII.2723)

The Louisiana Gaming Control amends LAC 42:VII.2723.F, G and H, 42:IX.2723.F, G and H and 42:XIII.2723.F, G and H, and repeals 42:VII.2715.P and XIII.2715.P in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950, et seq.

**Part VII. Pari-Mutuel Live Racing**
**Facility Slot Machine Gaming**

**Chapter 27. Accounting Regulations**

**§2715. Internal Control; General**

A. - O. …

P. The value of tokens issued to a patron upon the extension of credit, the receipt of a check or other instrument or via a complimentary distribution program shall be included in the computation of net gaming proceeds.

Q. The licensed eligible facility shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the act and the division's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2305 (October 2000).

**§2716. Clothing Requirements**

A. All authorized persons accessing any count room when unaudited funds are present shall wear clothing without any pockets or other compartments with the exception of division agents, Security, Internal Audit, and External Audit.

B. Cage employees shall not bring purses, handbags, briefcases, bags or any other similar item into the cage unless it is transparent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2305 (October 2000).

**§2717. Reserved**

**§2719. Internal Controls; Handling of Cash**

A. Each gaming employee, owner, or licensed eligible facility who receives currency of the United States from a patron in the gaming area of a gaming establishment shall promptly place the currency in the appropriate place in the cashiers' cage cash register, or other repository approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:748 (April 2000) amended by the Gaming Control Board, LR: 26:2305 (October 2000).

**§2723. Internal Controls, Slots**

A. - E.4. …

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. The requirements of this subsection shall be complied with prior to the device being returned to operation.

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. The requirements of this subsection shall be complied with prior to the device being returned to operation.

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. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - W.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:728 (April 2000) amended by the Gaming Control Board, LR: 26:2305 (October 2000).

**Part IX. Landbased Casino Gaming**

**Chapter 27. Accounting Regulations**

**§2723. Internal Controls, Slots**

A. - E.4. …

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. The requirements of this subsection shall be complied with prior to the device being returned to operation.

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. The requirements of this subsection shall be complied with prior to the device being returned to operation.

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I. - W.4. …

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 25:1936 (October 1999), amended LR:26:2305 (October 2000).

**Part XIII. Riverboat Gaming**

**Chapter 27. Accounting Regulations**

**§2715. Internal Control; General**

A. - O. …

P. 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.

Q. The licensee shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and the Division's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2235 (November 1999), amended by the Gaming Control Board LR 26:2306 (October 2000).

**§2723. Internal Controls, Slots**

A. - E.4. …

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. The requirements of this subsection shall be complied with prior to the device being returned to operation.

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. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is $100,000 or more, the licensee shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2242 (November 1999), amended LR 26:2306 (October 2000).

Hillary J. Crain
Chairman

0010#001

## RULE

**Office of Public Safety**
**Gaming Control Board**

Land Based Casino Gaming
(LAC 42:IX.Chapter 41)

The Louisiana Gaming Control Board has amended LAC 42:IX.4103 and adopted LAC 42:IX.4201 through 4219 and repealed LAC 42:IX:4327 through 4357 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42
LOUISIANA GAMING
Part IX. Landbased Casino Gaming
## Chapter 41. Enforcement Actions
### §4103. Enforcement Actions of the Board

A. Pursuant to 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 Board may:

1. limit or restrict the operations of the Casino or a Permit; or
2. suspend or revoke the operations of the Casino or a Permit; or
3. direct 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. impose a civil penalty on each person, or entity or both, who is permitted, Approved, registered or other wise found suitable pursuant to the Act or these Regulations, of not more than $1,000,000 per violation of the Act or these Regulations.

B. The Division may assess a civil penalty as provided in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the Casino Operator or Casino Manager. The proscriptive period is the amount of time, determined by the division, in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the delay for requesting a hearing expires or the date of the final agency decision relative to such violation. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of $1,000,000, the matter shall be forwarded to the Board for further administrative action. In such case, the Board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in Section 2927 of these Regulations may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

C. Penalty Schedule

| Penalty Schedule | | | |
|---|---|---|---|
| **Section Reference** | **Description** | **Base Fine** | **Proscriptive Period (Months)** |
| **Chapter 19** | **Policy** | | |
| 1905 | | $10,000 | 18 |
| **Chapter 21** | **Licenses and Permits** | | |
| 2119 | Access to Applicant's Premises and Records | $25,000 | 60 |
| 2127.A | Information Constituting Grounds for Delay or Denial of an Application | $10,000 | 24 |
| 2153.A | Cash Transaction Reporting | $5,000 | 12 |
| 2153.B | Cash Transaction Reporting (Violations in other states) | $20,000 | 24 |
| 2159.A | Gaming Employee Permits Required | $10,000 | 18 |
| 2163 | Display of Gaming Employees Permit | $500 | 12 |
| 2165.A | Gaming Equipment Must Be From Permitted Suppliers | $25,000 | 60 |
| 2165.B and C | Permit Requirements for Persons Furnishing Services or Property or Doing Business with the Casino Operator or Casino Manager | $2,000 | 12 |
| **Chapter 23** | **Compliance, Inspections, and Investigations** | | |
| 2325 | Sanctions | $2,500 | 12 |
| **Chapter 25** | **Transfers of Interest in the Casino Operator and Permitee; Loans and Restrictions** | | |
| 2521 | Loans and Lines of Credit | $75,000 | 60 |
| **Chapter 27** | **Accounting Regulation** | | |
| 2701 | Procedures for Reporting and Paying Gaming Revenues and Fees: | | |
| | Late Reports | $2,000 | 12 |
| | Late Wire Transfers | $5,000 | 12 |
| 2703.A | Accounting Records (per issue) | $2,000 | 12 |
| 2705 | Records of Ownership | $500 | 12 |
| 2707 | Record Retention | $10,000 | 18 |
| 2709.B | Quarterly Financial Statements | $1,000 | 12 |
| 2709.C | SEC Reports | $500 | 12 |
| 2711.B | Required Signatures | $500 | 12 |
| 2711.D | Change of CPA Requirements | $10,000 | 60 |
| 2711.F | Audited Financial Statements (submission date) | $10,000 | 60 |
| 2711.G | Change of Business Year | $2,000 | 60 |
| 2711.H | Other CPA Reports | $2,000 | 60 |
| 2711.I | Quarterly Net Win Reports | $5,000 | 24 |
| 2711.J | Additional CPA Information | $10,000 | 60 |
| 2713.C | Submit Monthly Calculation to Division | $5,000 | 12 |
| 2713.D | Submission of Revised Calculated Amount | $5,000 | 12 |
| 2715.A.1-7,14 | General Requirements | $2,500 | 12 |
| 2715.A.8-13 | Key Control & Entry Logs | $10,000 | 24 |

| | | | |
|---|---|---|---|
| 2715.D | Internal Audit Department – Failure to Investigate and Resolve Material Exceptions & to Document Results | $10,000 | 18 |
| 2715.E | Late Submission | $10,000 | 60 |
| 2715.F-G | Amendment of Computerized Controls and Amendments to Internal Controls | $25,000 | 24 |
| 2715.H | Amendments to Internal Controls required by the Division | $20,000 | 24 |
| 2715.J-M | General Credit Requirements | $5,000 | 18 |
| 2715.O | Quarterly Credit Report | $5,000 | 18 |
| 2716 | Clothing Requirements | $5,000 | 12 |
| 2717 | Internal Controls, Table Games: | | |
| 2717.A-E | Fills and Credits | $2,000 | 12 |
| 2717.F | Table Inventory | $5,000 | 12 |
| 2717.G | Credit Procedures in Pit | $2,000 | 12 |
| 2717.H | Non-Marker Credit Play | $5,000 | 12 |
| 2717.I | Call Bets | $10,000 | 18 |
| 2717.J | Table Games Drop Procedures | $10,000 | 24 |
| 2717.K | Table Games Count Procedures | $10,000 | 24 |
| 2717.L | Table Games Key Control Procedures | $10,000 | 24 |
| 2717.M | Security of Cards and Dice | $5,000 | 12 |
| 2717.N | Supervisory Controls of Table Games | $2,500 | 12 |
| 2717.O | Table Games Records | $2,500 | 12 |
| 2717.P | Accounting and MIS Functions | $2,500 | 12 |
| 2719 A and B | Handling of Cash at Gaming Tables | $5,000 | 18 |
| 2721 | Tips and Gratuities: | | |
| | Licensee Violation | $2,000 | 12 |
| | Permitee Violation | $500 | 12 |
| 2723 | Internal Controls, Slots: | | |
| 2723.B and C | Jackpot Request | $2,000 | 12 |
| 2723.D | Jackpot Payout Slip | $2,000 | 12 |
| 2723.E | Jackpot Payout Slips greater than $1,200 | $1,000 | 12 |
| 2723.F | Jackpot Payout Slips greater than $5,000 | $5,000 | 12 |
| 2723.G | Jackpot Payout Slips greater than $10,000 | $10,000 | 18 |
| 2723.H | Jackpot Payout Slips greater than $100,000 | $15,000 | 24 |
| 2723.I | Slot Fill Slips | $2,000 | 12 |
| 2723.J | Slot Hard Drop | $10,000 | 12 |
| 2723.K | Slot Count | $10,000 | 12 |
| 2723.L | Hard Count Weight Scale | $10,000 | 12 |
| 2723.M | Accurate and Current Records for each slot machine | $5,000 | 12 |
| 2723.N | Slot Machines removed from gaming floor | $10,000 | 18 |
| 2723.O | Key Control & Entry Logs | $10,000 | 24 |
| 2723.P | Sensitive Keys removed from vessel | $10,000 | 24 |
| 2723.Q | Currency Acceptor Drop and Count Standards | $10,000 | 24 |
| 2723.R | Computer Records | $5,000 | 12 |
| 2723.S | Management Information Systems (MIS) Functions | $5,000 | 18 |
| 2723.T | Accounting Department audit procedures relative to slot operations | $10,000 | 24 |
| 2723.U | Slot Department Requirements | $2,000 | 12 |
| 2723.V | Progressive Slot Machines | $5,000 | 12 |
| 2723.W | Training | $5,000 | 24 |
| 2725.A-F | Poker | $2,500 | 12 |
| 2729 | Cage and Credit: | | |
| 2729.A-H | Cage Procedures | $5,000 | 12 |
| 2729.I-HH | Credit Extension/Check Cashing | $5,000 | 12 |
| 2729.II-NN | Other Credit Issues | $5,000 | 12 |
| 2730 | Exchange of Chips and Tokens | $1,000 | 12 |
| 2731 | Currency Transaction Reporting | $5,000 | 12 |
| 2735.F | Inclusion of Chips, Tokens, Extensions of Credit or Comps in Gross Gaming Revenue | $5,000 | 12 |
| 2735 | Gross Gaming Revenue Computation | $5,000 | 12 |
| 2736 | Treatment of Credit for Computing Gross Gaming Revenue | $5,000 | 12 |
| **Chapter 29** | **Operating Standards** | | |
| 2901 | Methods of Operation Generally | $10,000 | 24 |
| 2903 | Compliance with Laws | $10,000 | 18 |
| 2909 | Prohibited Transactions | $25,000 | 60 |
| 2911 | Finder's Fees | $10,000 | 12 |
| 2921 | Entertainment Activities | $5,000 | 12 |
| 2922-2924 | Promotions; Increased Slot Jackpots; Coupon and Scrip, Tournaments, Giveaways and Drawings | $5,000 | 12 |
| 2925 | Gaming Employees Prohibited from Gaming | $2,500 | 12 |
| 2935.B | Age Restrictions for Casino | $10,000 | 12 |
| 2939 | Compulsive/Problem Gamblers – Telephone Info and Referral Service Posting (see | $1,000 | 24 |

| | Title 27:58.10) | | |
|---|---|---|---|
| 2945 | Restricted Areas | $10,000 | 24 |
| 2949 | Accessibility to Premises; Parking | $1,000 | 12 |
| 2970 | Agencies who may Collect; Collection by Unsuitable Person; Recordation of Collection Arrangements; Division Inspection | $10,000 | 60 |
| **Chapter 31** | **Rules of Play** | | |
| | All rule violations other than 3101, 3105, 3107 | $5,000 | 12 |
| 3101 | Authority and Applicability, Unauthorized Game | $25,000 | 24 |
| 3105 | Submission of Rules | $25,000 | 24 |
| 3107 | Wagers | $10,000 | 18 |
| **Chapter 33** | **Surveillance and Security** | | |
| 3301 | Required Surveillance Equipment | $10,000 | 24 |
| 3303 | Surveillance System Plans | $25,000 | 24 |
| 3305.A | Division Room | $10,000 | 24 |
| 3305.B | Access to Surveillance Equipment | $10,000 | 24 |
| 3305.C | Surveillance Employees Prohibited from Other Gaming Duties | $5,000 | 24 |
| 3305.D and E | Security of Division and Surveillance Rooms | $10,000 | 24 |
| 3305.F | Division Agents Access to Surveillance Room | $15,000 | 24 |
| 3305.H | Licensee Surveillance | $5,000 | 24 |
| 3307 | Segregated Telephone Communication | $5,000 | 24 |
| 3309.A | Maintaining Logs; Logging of Unusual Occurrences | $10,000 | 24 |
| 3311 | Storage and Retrieval | $20,000 | 24 |
| 3315 | Maintenance and Testing | $20,000 | 24 |
| 3317 | Surveillance System Compliance | $25,000 | 24 |
| **Chapter 35** | **Patron Disputes** | | |
| 3501 | Division Notification | $1,000 | 12 |
| **Chapter 37** | **List of Excluded Persons** | | |
| 3705 | Duty of Casino Operator, Casino Manager and Permittees to Exclude | $5,000 | 12 |
| **Chapter 41** | **Enforcement Actions** | | |
| 4103 | Enforcement Actions of the Board | $20,000 | 18 |
| **Chapter 42** | **Electronic Gaming Devices** | | |
| 4202 | Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers | $10,000 | 12 |
| 4204 | Progressive EGDs | $5,000 | 12 |
| 4205 | Computer Monitoring Requirements of Electronic Gaming Devices | $10,000 | 12 |
| 4208 | Certification by Manufacturer | $1,000 | 12 |
| 4211 | Duplication of Program Storage Media | $20,000 | 24 |
| 4212 | Marking, Registration, and Distribution of Gaming Devices | $5,000 | 12 |
| 4213 | Approval to Sell or Dispose of Gaming Devices | $10,000 | 24 |
| 4214 | Maintenance of Gaming Devices | $20,000 | 24 |
| 4219 | Approval of Associated Equipment; Application and Procedures | $5,000 | 12 |
| **Chapter 43** | **Specifications for Gaming Devices And Equipment** | | |
| 4301 | Approval of Chips and Tokens; Applications and Procedures | $5,000 | 12 |
| 4309 | Use of Chips and Tokens | $1,000 | 12 |
| 4311 | Receipt of Gaming Chips or Tokens from Manufacturer or Supplier | $5,000 | 12 |
| 4313 | Inventory of Chips | $5,000 | 12 |
| 4315 | Redemption and Disposal of Discontinued Chips and Tokens | $5,000 | 12 |
| 4317 | Destruction of Counterfeit Chips and Tokens | $5,000 | 12 |
| 4319 | Approval and Specifications for Dice | $5,000 | 12 |
| 4321 | Dice; Receipt, Storage, Inspections and Removal From Use | $5,000 | 12 |
| 4323 | Approval and Specifications for Cards | $5,000 | 12 |
| 4325 | Cards; Receipt, Storage, Inspections and Removal From Use | $5,000 | 12 |
| 4327 | Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers | $10,000 | 12 |
| 4331.B and C | Display | $2,000 | 12 |
| 4331.D | Amount Reduction | $5,000 | 12 |
| 4333 | Computer Monitoring Requirements of Electronic Gaming Devices | $10,000 | 12 |
| 4339 | Certification by Manufacturer | $1,000 | 12 |
| 4343 | Duplication of Program Storage Media | $20,000 | 24 |
| 4345 | Marking, Registration, and Distribution of Gaming Devices | $5,000 | 12 |
| 4347 | Approval to Sell or Dispose of Gaming Devices | $10,000 | 24 |
| 4349 | Maintenance of Gaming Devices | $20,000 | 24 |
| 4355 | Approval of Associated Equipment; Application and Procedures | $5,000 | 12 |
| **Title 27** | **Louisiana Gaming Control Law** | | |
| **Chapter 4** | **The Louisiana Riverboat Economic Development and Gaming Control Act** | | |
| **Part I** | **General Provisions** | | |
| 27: 250A and 27:230E | License or permit required | $10,000 | 60 |
| **Part V** | **Conducting of Gaming Operations** | | |
| 27:260 A(1)(2) | No one under 21 allowed | $10,000 | 12 |
| 27:244A(7) | Adequate insurance | $25,000 | 60 |
| **Part VIII** | **Issuance of Permits to Manufacturers, Suppliers, and Others** | | |

| | | | |
|---|---|---|---|
| 27:238(B) | Distribution of unapproved devices/supplies | $25,000 | 60 |
| 27:250(G) | Unpermitted employee | $10,000 | 18 |
| 27:260(A)(1)(2)(3) | Underage patron/employees | $10,000 | 12 |

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 26:1900 (October 1999) amend LR 26:2306 (October 2000).

## Chapter 42. Electronic Gaming Devices

### §4201. Reserved

### §4202. Approval of Electronic Gaming Devices; Applications and Procedures; Manufacturers and Suppliers

A. A Manufacturer or Supplier shall not sell, lease or distribute EGD's or equipment in this state and the Casino Operator or Casino Manager shall not offer EGD's for play without first obtaining the requisite Permit or License and obtaining prior Approval by the Division for such action. This Section shall not apply to those Manufacturers or Suppliers licensed or permitted to sell, lease or distribute EGD's or equipment in the state to an entity licensed under a provision of state law other than the Administrative Rules when those Manufacturers or Suppliers are selling or distributing to such licensed entity.

B. Applications for Approval of a new EGD shall be made and processed in such manner and using such forms as the Division may prescribe. Casino Operator or Casino Managers may apply for Approval of a new EGD. Each Application shall include, in addition to such other items or information as the Division may require:

1. a complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device operates, signed under penalty of perjury; and

2. a statement, under penalty of perjury, that to the best of the applicant's knowledge, the EGD meets the standards set forth in this Chapter.

C. No Game or EGD other than those specifically authorized in this Chapter may be offered for play or played in the Casino except that the Division may authorize the operation of progressive electronic EGD's as part of a network of separate Gaming Operations licensed by the Division with an aggregate prize or prizes.

D. Approval shall be obtained from the Division prior to changing, adding, or altering the Casino configuration once such configuration has received final Divisional Approval. For the purpose of this Section, altering the Casino configuration does not include the routine movement of EGD's for cleaning and/or maintenance purposes.

E. All components, tools, and test equipment used for installation, repair or modification of EGD's shall be stored in the slot technician repair office, or in a Division Approved locked storage area. Such office/storage shall be kept secure and only authorized Personnel shall have access.

F. Any compartment or room that contains communications equipment used by the EGD's and the EGD monitoring system shall be kept secure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2310 (October 2000).

### §4203. Minimum Standards for Electronic Gaming Devices

A. All EGD's submitted for Approval:

1. shall be electronic in design and operation and shall be controlled by a microprocessor or micro-controller or the equivalent;

2. shall theoretically pay out a mathematically demonstrable percentage of all amounts Wagered, which shall not be less than 80 percent and not more than 99.9 percent for each Wager available for play on the device;

3. shall use a random selection process to determine the Game outcome of each play of a Game. The random selection process shall meet 99 percent confidence limits using a standard chi-squared test for goodness of fit and in addition:

a. each possible permutation or combination of Game elements which produce winning or losing Game outcomes shall be available for random selection at the initiation of each play; and

b. the selection process shall not produce detectable patterns of Game elements or detectable dependency upon any previous Game outcome, the amount wagered, or upon the style or method of play.

4. shall display an accurate representation of the Game outcome. After selection of the Game outcome, the EGD shall not make a variable secondary decision which affects the result shown to the player;

5. shall display the rules of play and payoff schedule;

6. shall not automatically alter pay-tables or any function of the device based on internal computation of the hold percentage;

7. shall be compatible to on-line data monitoring;

8. shall have a separate locked internal enclosure within the device for the control circuit board and the program storage media;

9. shall be able to continue a Game with no data loss after a power failure;

10. shall have current Game and the previous two Games data recall;

11. shall have a complete set of nonvolatile meters including coins-in, coins-out, coins dropped and total jackpots paid;

12. shall contain a surge protector on the line that feeds power to the device. The battery backup or an equivalent for the electronic meter information shall be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the device. The backup shall be kept within the locked logic board compartment;

13. shall have an on/off switch that controls the electrical current used in the operation of the device which shall be located in an accessible place within its interior;

14. shall be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

15. shall have at least one electronic coin acceptor and may be equipped with an Approved currency acceptor. Coin and currency acceptors shall be designed to accept designated coins and currency and reject others. The coin acceptor on a device shall be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All types of coin and currency acceptors are subject to Approval by the Division. The control program shall be capable of handling rapidly fed coins so that occurrences of inappropriate "coin-ins" are prevented;

16. shall not contain any unsecured hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;

17. shall contain a non-removable identification plate containing the following information, appearing on the exterior of the device:

a. Manufacturer;

b. Serial Number; and

c. Model Number.

18. shall have a communications data format from the EGD to the EGD monitoring system Approved by the Division;

19. shall be capable of continuing the current Game with all current Game features after a malfunction is cleared. This rule does not apply if a device is rendered totally inoperable. The current Wager and all credits appearing on the screen prior to the malfunction shall be returned to the Patron;

20. shall have attached a locked compartment separate from any other compartment of the device for housing a Drop bucket. The compartment shall be equipped with a switch or sensor that provides detection of the Drop door opening and closing by signaling to the EGD monitoring system;

21. shall have a locked compartment for housing currency, if equipped with a currency acceptor;

22. shall, at a minimum, be capable of detecting and displaying the following error conditions which an attendant may clear:

a. coin-in jam;

b. coin-out jam;

c. currency acceptor malfunction or jam;

d. hopper empty or time-out;

e. program error;

f. hopper runaway or extra coin paid out;

g. reverse coin-in;

h. reel error; and

i. door open.

23. shall use a communication protocol which ensures that erroneous data or signal will not adversely affect the operation of the device;

24. shall have a mechanical, electrical, or electronic device that automatically precludes a player from operating the device after a jackpot requiring a manual payout and requires an attendant to reactivate the device; and

25. shall be outfitted with any other equipment required by this Chapter or the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2310 (October 2000).

### §4204. Progressive Electronic Gaming Devices

A. This Section authorizes the use of progressive EGD's among Gaming Operations licensed pursuant to the provisions of R.S. 27:51 et seq., R.S. 27:201 et seq. and R.S. 27:351 et seq. in the state of Louisiana, within one eligible facility, provided that the EGD's meet the requirements stated in this Chapter and any additional requirements imposed by the Administrative Rules, the Board, or the Division.

B. Wide area progressive Games that link EGD's located in more than one location shall be approved by the Board or Division on a case-by-case basis.

C. Progressive EGD's Defined

1. A progressive EGD is an electronic Gaming device with a payoff that increases uniformly as the EGD or another device on the same link is played.

2. "Base amount" means the amount of the progressive jackpot offered before it increases.

3. "Incremental amount" means the difference between the amount of a Progressive Jackpot and its base amount.

4. A Progressive Jackpot may be won where certain pre-established criteria, which does not have to be a winning combination, are satisfied.

5. A bonus Game where certain circumstances are required to be satisfied prior to awarding a fixed bonus prize is not a progressive EGD and is not subject to this Chapter.

D. Transferring of Progressive Jackpot which is in Play:

1. A Progressive Jackpot which is currently in play may be transferred to another progressive EGD in the Casino in the event of :

a. EGD malfunction;

b. EGD replacement; or

c. other good reason deemed appropriate by the Division or Board to ensure compliance with this Chapter.

2. If the events set forth above do not occur, the Progressive award shall be permitted to remain until it is won by a player or transfer is approved by the Division.

E. Recording, Keeping and Reconciliation of Jackpot Amount

1. The Casino Operator or Casino Manager shall maintain a record of the amount shown on a Progressive Jackpot meter on the premises. The Progressive Jackpot meter information shall be read and documented, at a minimum, every 24 hours. Electronic meter information shall be recorded when a primary jackpot occurs on an EGD.

2. Supporting documents shall be maintained to explain any reduction in the payoff amount from a previous entry.

3. The records and documents shall be retained for a period of five years.

4. The Casino Operator or Casino Manager shall confirm and document, on a quarterly basis, that proper communication was maintained on each EGD linked to the progressive controller during that time.

5. The Casino Operator or Casino Manager shall record the progressive liability on a daily basis.

6. The Casino Operator or Casino Manager shall review, on a quarterly basis, the incremented rate and reasonableness of the progressive liability by either a physical coin-in test or by meter readings to calculate incremental coin-in multiplied by the rate incremented to

arrive at the increase in, and reasonableness of, the Progressive Jackpot amount.

7. The Casino Operator or Casino Manager shall formally adopt the Manufacturer's specified internal controls for Wide area progressive EGD's, as Approved by the Division, as part of the Casino Operator or Casino Manager's system of internal controls.

F. The Progressive Meter

1. The EGD shall be linked to a progressive meter or meters showing the current payoff to all players who are playing an EGD which may potentially win the progressive amount. A meter that shows the amount of the Progressive Jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

G Consistent Odds on Linked EGD's

1. When more than one progressive EGD is linked together, each EGD in the link shall be of the same denomination and have the same coin in multiplier, and have the same probability of hitting the combination that will award the Progressive Jackpot or jackpots as every other machine in the link.

H. Operation of Progressive Controller-Normal Mode

1. During the normal operating mode of the progressive controller, the controller shall do the following:

a. continuously monitor each EGD attached to the controller to detect inserted coins or credits wagered;

b. multiply the accepted coins by the denomination and the programmed rate progression in order to determine the correct amounts to apply to the Progressive Jackpot.

2. The progressive display shall be constantly updated as play on the link is continued. It will be acceptable to have a slight delay in the update so long as when a jackpot is triggered, the jackpot amount is shown immediately.

I. Operation of Progressive Controller-Jackpot Mode

1. When a Progressive Jackpot is recorded on an EGD, which is attached to the progressive controller or another attached approved component or system ,(hereinafter progressive controller), the progressive controller shall allow for the following:

a. display of the winning amount;

b. display of the EGD identification that caused the progressive meter to activate if more than one EGD is attached to the controller.

2. The progressive controller is required to send to the EGD the amount that was won. The EGD is required to update its electronic meters to reflect the winning jackpot amount consistent with this Chapter.

3. When more than one progressive EGD is linked to the progressive controller, the progressive controller shall automatically reset to the reset amount and continue normal play. During this time, the progressive meter or another attached Approved component or system shall display the following information:

a. the identity of the EGD that caused the progressive meter to activate;

b. the winning progressive amount;

c. the new normal mode amount that is current on the link.

4. A Wide Area progressive EGD and/or a progressive device, where a jackpot of one hundred thousand dollars ($100,000) or more is won , shall automatically enter into a non-play mode which prohibits additional play on the device after a primary jackpot has been won on the device. Upon conclusion of necessary inspections and tests by the Division, the device may be offered for play.

J. Alternating Displays

1. When this procedure prescribes multiple items of information to be displayed on a progressive meter, it is sufficient to have the information displayed in an alternating fashion.

K. Security of Progressive Controller

1. Each progressive controller linking two or more progressive EGD's shall be housed in a double keyed compartment in a location Approved by the Division. All keys shall be maintained in accordance with LAC 42:IX:Chapter 27 of the Administrative Rules.

2. The Division may require possession of one of the keys.

3. Persons having access to the progressive controller shall be Approved by the Division.

4. A list of Persons having access to a progressive controller shall be submitted to the Division.

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the Division and completed by each individual who gains entrance to the controller.

2. Security restrictions shall be submitted in writing to the Division for Approval at least 60 days before their enforcement. All restrictions approved by the Division shall be made on a case by case basis in the case of a stand-alone progressive where the controller is housed in the logic area.

3. The progressive controller shall keep the following information in nonvolatile memory which shall be displayed upon demand:

a. the number of Progressive Jackpots won on each progressive level if the progressive display has more than one winning amount;

b. the cumulative amounts paid on each progressive level if the progressive display has more than one winning amount;

c. the maximum amount of the progressive payout for each level displayed;

d. the minimum amount or reset amount of the progressive payout for each level displayed;

e. the rate of progression for each level displayed.

M. Limits on jackpots of progressive EGD's

1. The Casino Operator or Casino Manager may impose a limit on the jackpot of a progressive EGD if the limit imposed is greater than the possible maximum jackpot payout on the EGD at the time the limit is imposed. The Casino Operator or Casino Manager shall inform the public with a prominently posted notice of progressive EGD's and their limits.

N. The Casino Operator or Casino Manager 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 or Casino Manager adjusts the Progressive Jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to §4204.M of these Regulations and the

Casino Operator or Casino Manager documents the adjustment and the reasons for it;

3. the Casino Operator or Casino Manager's Gaming operations at the establishment cease for any reason other than a temporary closure where the same Casino Operator or Casino Manager resumes Gaming operations at the same establishment within a month;

4. the Casino Operator or Casino Manager distributes the incremental amount to another Progressive Jackpot at the Casino Operator or Casino Manager's establishment and:

a. the Casino Operator or Casino Manager documents the distribution;

b. any machine offering the jackpot to which the Casino Operator or Casino Manager distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

c. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.B of the Regulations; and

d. The distribution is completed within 30 days after the Progressive Jackpot is removed from play or within such longer period as the Division may for good cause approve; or

e. the Division approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which Approval is confirmed in writing.

5. Casino Operator or Casino Managers shall preserve the records required by this section for at least five years.

O. Individual progressive EGD controls.

1. Individual EGD's shall have a minimum of seven electronic meters, including a coin-in meter, Drop meter, jackpot meter, win meter, manual jackpot meter, progressive manual jackpot meter and a progressive meter.

P. Link progressive EGD controls.

1. Each machine shall require the same number of Tokens be inserted to entitle the player to a chance at winning the Progressive Jackpot and every Token shall increment the meter by the same rate of progression as every other machine in the group.

2. When a Progressive Jackpot is hit on a machine in the group, all other machines shall be locked out, except if an individual progressive meter unit is visible from the front of the machine. In that case, the progressive control unit shall lock out only the machine in the progressive link that hit the jackpot. All other progressive meters shall show the current "Current Progressive Jackpot Amount."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2311 (October 2000).

### §4205. Computer Monitoring Requirements of Electronic Gaming Devices

A. The Casino Operator or Casino Manager shall have a computer connected to all EGD's in the Casino to record and monitor the activities of such devices. No EGD shall be operated unless it is on-line and communicating to a computer monitoring system approved by a designated Gaming laboratory specified by the Division. Such computer monitoring system shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the Division.

1. Any occurrence of malfunction or interruption of communication between the EGD's and the EGD monitoring system shall immediately be reported to the Division for determination of further action to be taken. These malfunctions include, but are not limited to, system down for maintenance or malfunctions, zeroed meters, invalid meters and any variance between EGD Drop meters and the actual count of the EGD Drop.

2. Prior written Approval from the Division is required before implementing any changes to the computerized EGD monitoring system or adopting manual procedures for when the computerized EGD monitoring system is down.

3. Each and every modification of the software shall be Approved by a designated gaming laboratory specified by the Division.

B. The computer Permitted by subsection A above shall be designed and operated to automatically perform and report functions relating to EGD meters, and other exceptional functions and reports in the Casino as follows:

1. record the number and total value of Tokens placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of Tokens deposited in the Drop bucket of the EGD;

4. record the number and total value of Tokens automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of Tokens to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the Drop area. In addition, any Person opening the EGD or the Drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the Drop team;

7. be capable of logging in and reporting any revenue transactions not directly monitored by Token meter, such as Tokens placed in the EGD as a result of a fill, and any Tokens removed from the EGD in the form of a credit; and

8. identify any EGD taken off-line or placed on-line of the computer monitor system, including date, time, and EGD identification number;

9. report the time, date and location of open doors or error conditions by each EGD.

C. The Casino Operator or Casino Manager shall store, in machine-readable format, all information required by subsection B above for the period of five years. The Casino Operator or Casino Manager shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a Division agent in the format and media Approved by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2313 (October 2000).

### §4206. Employment of Individual to Respond to Inquires From the Division

A. Each Manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the Division to any inquires from him concerning the EGD or any modifications to the device. Each Manufacturer shall writing any change in the designation within 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 26:2313 (October 2000).

### §4207. Evaluation of New Electronic Gaming Devices

A. The Division may require transportation of not more than two working models of a new EGD to a designated gaming laboratory for review and inspection. The Manufacturer seeking Approval of the device shall pay the cost of the inspection and investigation. The designated gaming laboratory may dismantle the models and may destroy electronic components in order to fully evaluate the device. The Division may require the Manufacturer or Supplier seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the equipment, and may employ an outside designated gaming laboratory to conduct the evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000).

### §4208. Certification by Manufacturer

A. After completing its evaluation of a new EGD, the lab shall send a report of its evaluation to the Division and the Manufacturer seeking Approval of the device. The report shall include an explanation of the manner in which the device operates. The Manufacturer shall return the report within 15 days and shall either:

1. certify, under penalty of perjury, that to the best of its knowledge the explanation is correct; or

2. make appropriate corrections, clarifications, or additions to the report and certify, under penalty of perjury, that to the best of its knowledge the explanation of the EGD is correct 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 26:2314 (October 2000).

### §4209. Approval of New Electronic Gaming Devices

A. After completing its evaluation of the new EGD, the Division shall determine whether the application for Approval of the new EGD should be granted. In considering whether a new EGD will be given final Approval, the Division shall consider whether Approval of the new EGD is consistent with this Chapter. Division Approval of an EGD does not constitute certification of the device's safety.

1. Equipment Registration and Approval

a. All electronic or mechanical EGD's shall be approved by the Division and/or its Approved designated gaming laboratory and registered by the Division prior to use.

b. The following shall not be used for Gaming by any Casino Operator or Casino Manager without prior written Approval of the Division:

i. bill acceptors or bill validators;

ii. coin acceptors;

iii. progressive controllers;

iv. signs depicting payout percentages, odds, and/or rules of the Game;

v. associated Gaming equipment as provided for in Chapter 42 of the Administrative Rules.

c. The Casino Operator or Casino Manager and/or Manufacturer's request for Approval shall describe with particularity the equipment or device for which the Division's Approval is requested.

d. The Division may request additional information or documentation prior to issuing written Approval.

2. Testing

a. The following shall be tested prior to registration or Approval for use:

i. all EGD's;

ii. EGD monitoring systems;

iii. any other device or equipment as the Division may deem necessary to ensure compliance with this.

b. The Division may employ the services of a designated gaming laboratory to conduct testing.

i. Any new EGD not presently Approved by the Division shall first meet the Approval and testing criteria of the Division's recognized designated gaming laboratory, who shall evaluate and test the product and issue a written opinion to the Division of all test results. The Casino Operator or Casino Manager, Manufacturer or Supplier shall incur all costs associated with the testing of the product. This may include costs for field tests, travel, laboratory tests, and/or other associated costs. Failure on the part of the requesting party to timely pay these costs may be grounds for the denial of the request and cause for Enforcement action by the Division. Recommendations of Approval by the designated gaming laboratory with regard to program Approval(s) shall constitute Division Approval and do not require separate written Approval by the Division. Other test determinations shall be reviewed by the Division and a written decision shall be issued by the Division. In situations wherein the need for specific guidelines and internal controls are required, the Division will work in concert with the designated gaming laboratory to develop guidelines for the Casino Operator or Casino Manager. The Casino Operator and Casino Managers shall be required to comply with these guidelines and they shall become part of the Casino Operator or Casino Manager's system of internal controls. At no time shall an unauthorized program, Gaming device, Associated Equipment and/or component be installed, stored, possessed, or offered for play by a Casino Operator or Casino Manager, Permittee, or their agent, representative, employee or other Person in the Louisiana Gaming Industry.

c. Registration and/or Approval shall not be issued unless payment for all costs of testing is current.

d. Registration, Approval, or the denial of EGD's, or any other device or equipment shall be issued in accordance with the Administrative Rules, and this Chapter.

e. EGD's shall meet all specifications as required in §4203 of these regulations and shall meet the following security and audit specifications:

i. be controlled by a microprocessor;

ii. be connected and communicating to an Approved on-line EGD monitoring system;

iii. have an internal enclosure for the circuit board which is locked or sealed, or both, prior to and during Game play;

iv. be able to continue a Game with no loss of data after a power failure;

v. have Game data recall for the current Game and the previous two Game

vi. have a random selection process that satisfies the 99 percent confidence level using the following tests:

(a). standard chi-squared;

(b). runs; and

(c). serial correlation.

(Note: These tests shall not be predictable by players.)

vii. clearly display applicable rules of play and the Payout schedule;

viii. display an accurate representative of each Game outcome utilizing:

(a). rotating wheels;

(b). video monitoring; or

(c). any other type of display mechanism that accurately depicts the outcome of the Game.

f. All EGD's shall be registered with the Division and shall have a registration sticker to the device on a viewable, accessible location on the interior of the frame of the EGD. It is incumbent on each Casino Operator or Casino Manager to ensure that the registration sticker is properly affixed and is valid. In the event that the registration sticker becomes damaged or voided, the Casino Operator or Casino Manager shall immediately notify the Division in writing. The Division shall issue a replacement sticker and re-register the device as soon as practical.

g. All EGD's shall be located within the Designated Gaming Area. This is inclusive of all "Free Pull" machines or similar devices. A device which is not in use may be stored in a secured area if Approved in writing by the Division.

h. The Casino Operator or Casino Manager shall maintain a current inventory report of all EGD's and equipment. The inventory report shall include, but is not limited to, the following:

i. the serial number assigned to the EGD by the Manufacturer;

ii. the registration number issued by the Division;

iii. the type of Game for which the EGD is designed and used;

iv. the denomination of Tokens or coins accepted by each EGD;

v. the location of EGD's equipped with bill validators and any bill validators that stand alone;

vi. the Manufacturer of the EGD;

vii.the location or house number of the EGD.

i. This inventory report shall be submitted to the Division's Operational Section on a diskette, in a data text format, upon request by the Division.

j. All EGD's offered for play shall be given a "House Number" by the Casino Operator or Casino Manager. This house number shall not be altered or changed without prior written Approval from the Division. The Casino Operator or Casino Manager shall issue the "House Numbers" in a systematic manner which provides for easy recognition and location of the device's location. This number shall be a part of the Casino Operator or Casino Manager's "On-Line Computer EGD Monitoring System," and shall be displayed, in part, on all on-line system reports. Each EGD shall have its respective House Number attached to the device in a manner which allows for easy recognition by Division Personnel and surveillance cameras.

k. Control Program Requirements

i. EGD control programs shall test themselves for possible corruption caused by failure of the program storage media.

ii. The test methodology shall detect 99.99 percent of all possible failures.

iii. The control program shall allow for the EGD to be continually tested during Game play.

iv. The control program shall reside in the EGD which is contained in a storage medium not alterable through any use of its circuitry or programming of the EGD itself.

v. The control program shall check the following:

(a). corruption of RAM locations used for crucial EGD functions;

(b). information relating to the current play and final outcome of the two prior Games;

(c). random number generator outcome;

(d). error states.

vi. The control RAM areas shall be checked for corruption following Game initiation, but prior to display of the Game outcome to the player.

vii. Detection of corruption is a Game malfunction that shall result in a tilt condition which identifies the error and causes the EGD to cease further function.

viii. The control program shall have the capacity to display a complete play history for the current Game and the previous two Games.

ix. The control program shall display an indication of the following:

(a). the Game outcome or a representative equivalent;

(b). bets placed;

(c). credits or coins paid;

(d). credits or coins cashed out; and

(e). any error conditions.

x. The control program shall provide the means for on-demand display of the electronic meters via a key switch or other mechanism on the exterior of the EGD.

l. Accounting Meters

i. All EGD's shall be equipped with electronic meters.

ii. All EGD's electronic meters shall have at least eight digits.

iii. All EGD's shall tally totals to eight digits and be capable of rolling over when the maximum value is reached.

iv. The required electronic meters are as follows.

(a). The coin-in meter shall cumulatively count the number of coins wagered by actual coins inserted or credits bet, or both.

(b). The coin-out meter shall cumulatively count the number of coins that are paid by the hopper as a result of a Win, or credits that are won, or both.

(c). The coins-dropped meter shall maintain a cumulative count of the number of coins that have been diverted into a Drop bucket and credit value of all bills inserted into the bill validator for play.

(d). The jackpots-paid meter shall reflect the cumulative amounts paid by an attendant for all jackpots.

(e). The Games-played meter shall display the cumulative number of Games played (handle pulls).

(f). The Drop door meter shall display the number of times the Drop door was opened.

(g). If the EGD is equipped with a bill validator, the device shall be equipped with a bill validator meter that records:

(i) the total number of bills that were accepted;

(ii) a breakdown of the number of each denomination of bill accepted; and

(iii) the total dollar amount of bills accepted.

(h). EGD's shall be designed so that replacement of parts, modules, or components required for normal maintenance does not affect the electronic meters.

(i). EGD's shall have meters which continuously display the following information relating to the current play or monetary transaction:

(i). the number of coins or credits wagered in the current Game;

(ii). the number of coins or credits won in the current Game, if applicable;

(iii). the number of coins paid by the hopper for a credit cash out or a direct pay from a winning outcome;

(iv). the number of credits available for wagering, if applicable.

(j). Electronically stored meter information required by this Section shall be preserved after power loss to the EGD by battery backup and be capable of maintaining accuracy of electronically stored meter information for a period of at least 180 days.

m. No EGD may have a mechanism that causes the electronic accounting meters to clear automatically when an error occurs.

n. Clearing of the electronic accounting meters, other than due to a malfunction, may be done only if Approved in writing by the Division. Meter readings, as prescribed by the Division, shall be recorded before and after any electronic accounting meter is cleared or a modification is made to the device.

o. Hopper

i. EGD's shall be equipped with a hopper which is designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

(a). jammed coins;

(b). extra coins paid out;

(c). hopper runaways;

(d). hopper empty conditions.

ii. The EGD control program shall monitor the hopper mechanism for these error conditions in all Game states in accordance with this Chapter.

iii. All coins paid from the hopper mechanism shall be accounted for by the EGD, including those paid as extra coins during hopper malfunction.

iv. Hopper pay limits shall be designed to Permit compliance by Casino Operator or Casino Managers with all applicable taxation laws, rules, and regulations.

p. Communication Protocol

i. An EGD which is capable of a bi-directional communication with internal or external Associated Equipment shall use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the EGD.

q. EGD's installed and/or modified shall be inspected and/or tested by Division Agents prior to offering these devices for live play. Accordingly, no device shall be operated unless and until each regulated program storage media has been tested and sealed into place by Division Agent(s). The Division's security tape shall at all times remain intact and unbroken. It is incumbent on the Casino Operator or Casino Manager to routinely inspect every device to ensure compliance with this procedure. In the event a Casino Operator or Casino Manager discovers that the security tape has been broken or tampered with, the power to the EGD shall be immediately turned off, surveillance shall be immediately notified and shall take a photograph of the logic board. The board shall be maintained in the surveillance office until a Division Agent has the opportunity to inspect the board. A copy of the device's meal card shall be made and shall accompany the board.

r. No Casino Operator or Casino Manager or other Person shall modify an EGD without prior written Approval from the Division. A request shall be made by completing form(s) prescribed by the Division and filing it with the respective field office. The Casino Operator or Casino Manager shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for Enforcement Action.

s. EGD's shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

i. The EGD shall pay out at least 80 percent and not more than 99.9 percent of the amount wagered.

ii. The theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage.

iii. An EGD shall have a probability of obtaining the maximum payout greater than 1 in 50,000,000.

iv. An EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

t. Modifications to an EGD's program shall be considered only if the new program has been Approved by the designated gaming laboratory, and if the existing program has met the minimum requirements as set forth herein. The minimum program change requirements are unique to each program or program storage media. Therefore, it is not practical to list each one. In general, a program shall meet the 99 percent confidence interval range of 80 percent to 99.9 percent prior to being removed or

replaced. As stated, this confidence interval varies by program and manufacturer. The confidence interval is determined by the designated Gaming laboratory who tests each program and determines the interval. For the purpose of these procedures, an interval shall be determined by the Games played on the existing program. An EGD's program shall not be approved for change unless the existing program has met or exceeded the minimum of one hundred thousand required Games played. Exceptions to this procedure are those situations in which it can be reasonably determined that a program chip is defective or malfunctioning, or during a 90 day trial period of a newly Approved program.

u. A Casino Operator or Casino Manager shall be allowed to test, on a limited basis, newly Approved programs. The Casino Operator or Casino Manager shall file an EGD 96-01 form and indicate in field 21 that the request is for a 90 day trial period. Failure to do so may be grounds for denial of the request to remove the program prior to reaching the 99.9 percent confidence interval. The Casino Operator or Casino Manager, upon Approval, shall be allowed to test the program and will be allowed to replace it during this 90 day period with cause. If a request to replace the test program is not filed with the Division prior to the expiration of the 90 day approval, the program shall not be replaced and the program replacement criteria as stated in these procedures shall be applicable.

v. When an Approved denomination change is made to an EGD which used or uses Tokens, the Casino Operator or Casino Manager shall make necessary adjustments to the initial hopper fill listed on the Daily Gross Gaming Revenue Report. Additionally, an adjustment shall be made to the Daily Gross Gaming Revenue Report to reflect the change in the initial hopper fill each time an EGD is taken off the floor or out of play. A final Drop shall be made for that machine, including the hopper. The initial hopper load should be deducted to determine the final net Drop for the device.

w. Randomness Events / Randomness Testing

i. Events in EGD's are occurrences of elements or particular combinations of elements which are available on the particular EGD.

ii. A random event has a given set of possible outcomes which has a given probability of occurrence called the distribution.

iii. Two events are called independent if the following conditions exist:

(a). the outcome of one event has no influence on the outcome of the other event;

(b). the outcome of one event does not affect the distribution of another event.

iv. An EGD shall be equipped with a random number generator to make the selection process. A selection process is considered random if the following specifications are met:

(a). the random number generator satisfies at least 99 percent confidence level using chi-squared analysis;

(b). the random number generator does not produce a measurable statistic with regard to producing patterns of occurrences. Each reel position is considered random if it meets at least the 99 percent confidence level with regard to the runs test or any similar pattern testing statistic;

(c). the random number generator produces numbers which are independently chosen.

x. Safety Requirements

i. Electrical and mechanical parts and design principles shall not subject a player to physical hazards.

ii. Spilling a conductive liquid on the EGD shall not create a safety hazard or alter the integrity of the EGD's performance.

iii. The power supply used in an EGD shall be designed to make minimum leakage of current in the event of an intentional or inadvertent disconnection of the alternate current power ground.

iv. A surge protector shall be installed on each EGD. Surge protection can be internal or external to the power supply.

v. A battery backup device shall be installed and capable of maintaining accuracy of required electronic meter information after power is disconnected from the EGD. The device shall be kept within the locked or sealed logic board compartment and be capable of sustaining the stored information for 180 days.

vi. Electronic discharges. The following shall not subject the player to physical hazards:

(a). electrical parts;

(b). mechanical parts;

(c). design principles of the EGD and its component parts.

y. On and Off Switch. An on and off switch that controls the electrical current used to operate the EGD shall be located in an accessible place and within the interior of the EGD.

z. Power Supply Filter. EGD power supply filtering shall be sufficient to prevent disruption of the EGD by a repeated fluctuation of alternating current.

aa. Error Conditions and Automatic Clearing:

i. EGD's shall be capable of detecting and displaying the following conditions:

(a). power reset;

(b). door open;

(c) inappropriate coin-in if the coin is not automatically returned to the player.

ii. The conditions listed above shall be automatically cleared by the EGD upon initiation of a new play sequence, if possible.

28. Error Conditions; Clearing by Attendant

a. EGD's shall be capable of detecting and displaying the following error conditions which an attendant may clear:

i. coin-in jam;

ii. coin-out jam;

iii. hopper empty or timed-out;

iv. RAM error;

v. hopper runaway or extra coin paid out;

vi. program error;

vii. reverse token-in;

viii. reel spin error of any type, including a mis-index condition for rotating reels. The specific reel number shall be identified in the error indicator;

ix. low RAM battery, for batteries external to the RAM itself, or low power source;

b. A description of EGD error codes and their meanings shall be affixed inside the EGD.

29. Coin Acceptors

a. At least one electronic coin acceptor shall be installed in each EGD.

b. All acceptors shall be approved by the Division or the designated gaming laboratory.

c. Coin acceptors shall be designed to accept designated coins and to reject others.

d. The coin receiver on an EGD shall be designed to prevent the use of cheating methods, including, but not limited to:

i. slugging;

ii. stringing; and

iii. spooling.

e. Coins which are accepted but not credited to the current Game shall be returned to the player by activation of the hopper or credited toward the next play of the EGD control program and shall be capable of handling rapidly fed coins so that frequent occurrences of this type are prevented.

f. EGD's shall have suitable detectors for determining the direction and speed of the coin(s) travel in the receiver. If a coin traveling at improper speed or direction is detected, the EGD shall enter an error condition and display the error condition which shall require attendant intervention to clear.

30. Bill Validators

a. EGD's may contain a bill validator that will accept the following:

i. $1 bills;

ii. $5 bills;

iii. $10 bills;

iv. $20 bills;

v. $50 bills;

vi. $100 bills.

b. The bill acceptors may be for single denomination or combination of denominations.

31. Automatic Light Alarm

a. A light shall be installed on the top of the EGD that automatically illuminates when the door to the EGD is opened or Associated Equipment that may affect the operation of the EGD is exposed, excluding all bartop EGD's.

32. Access to the Interior

a. The internal space of an EGD shall not be readily accessible when the door is closed.

b. The following shall be in a separate locked or sealed area within the EGD's:

i. logic boards;

ii. ROM;

iii. RAM;

iv. program storage media.

c. No access to the area described above is allowed without prior notification to the Casino Operator's surveillance room.

d. The Division shall be allowed immediate access to the locked or sealed area. The Casino Operator or Casino Manager shall maintain its copies of the keys to EGD's in accordance with the administrative rules and the Casino Operator or Casino Manager's system of internal controls. A Casino Operator or Casino Manager shall provide the Division a master key to the door of an Approved EGD, if so requested. Unauthorized tampering or entrance into the logic area without prior notification in accordance with Subparagraph c is grounds for Enforcement Action.

33. Tape Sealed Areas

a. An EGD's logic boards and/or any program storage media in a locked area within the EGD shall be sealed with the Division's security tape. The security tape shall be affixed by a Division Agent. The security tape may only be removed by, or with Approval from, a Division Agent.

34. Hardware Switches.

a. No hardware switches may be installed which alter the pay tables or Payout percentages in the operation of an EGD.

b. Hardware switches may be installed to control the following:

i. graphic routines;

ii. speed of play;

iii. sound; and

iv. other approved cosmetic play features.

35. Display of Rules of Play

a. The rules of play for EGD's shall be displayed on the face or screen of all EGD's. Rules of play shall be Approved by the Division prior to play.

b. The Division may reject the rules if they are:

i. incomplete;

ii. confusing;

iii. misleading; or

iv. for any other reason stated by the Division.

c. Rules of play shall be kept under glass or another transparent substance and shall not be altered without prior Approval from the Division.

d. Stickers or other removable devices shall not be placed on the EGD face unless their placement is Approved by the Division.

36. Manufacturer's Operating and Field Manuals and Procedures.

a. A Casino Operator or Casino Manager shall comply with written guidelines and procedures concerning installations, modifications, and/or upgrades of components and Associated Equipment established by the Manufacturer of an EGD, component, on-line system, software, and/or Associated Equipment unless otherwise Approved in writing by the Division, or if the guideline(s) and/or procedure(s) conflict with any portion of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000).

**§4210. Electronic Gaming Device Tournaments**

A. EGD tournaments may be conducted by Casino Operator or Casino Managers, upon written Approval by the Division.

B. All tournament play shall be on machines which have been tested and Approved by the Division, and for which the tournament feature has been enabled.

C. All EGD's used in a single tournament shall utilize the same electronics and machine settings. Casino Operator or Casino Managers shall utilize, and each device shall be equipped with an Approved program which allows for tournament mode play to be enabled by a switch key (reset feature) and/or total replacement of the logic board , with an Approved tournament board. Replacement of program

storage media is not permissible for tournament play only. Form(s) as prescribed by the Division are required to be submitted for each device used in tournament play when the non-tournament logic board is removed. The Casino Operator or Casino Manager shall submit, in writing, procedures regarding the storage and security of the both tournament and non- tournament boards when not in use.

D. EGD's enabled for tournament play shall not accept or pay out coins. The EGD's shall utilize credit points only.

E. Tournament credits shall have no cash value.

F. Tournament play shall not be credited to accounting or electronic (soft) meters of the EGD.

G. At the Casino Operator or Casino Manager's discretion, and in accordance with applicable laws and rules, the Casino Operator or Casino Manager may establish qualification or selection criteria to limit the eligibility of players in a tournament.

H. Rules of Tournament Play

1. The Casino Operator or Casino Manager shall submit rules of tournament play to the Division in accordance with LAC 42:IX:2923 or within such time period as the Division may designate. The rules of play shall include, but are not limited to, the following:

a. the amount of points, credits, and playing time players will begin with;

b. the manner in which players will receive EGD assignments and how reassignments are to be handled;

c. how players are eliminated from the tournament and how the winner or winners are to be determined;

d. the number of EGD's each player will be allowed to play;

e. the amount of entry fee for participating in the tournament;

f. the number of prizes to be awarded;

g. an exact description of each prize to be awarded;

h. any additional house rules governing play of the tournament;

i. any rules deemed necessary by the Division to ensure compliance with this Chapter.

2. A Casino Operator or Casino Manager shall not Permit any tournament to be played unless the rules of the tournament play have been Approved, in writing, by the Division.

3. The rules of tournament play shall be provided to all tournament players and each member of the public who requests a copy of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2318 (October 2000).

### §4211. Duplication of Program Storage Media

A. Personnel and Certification

1. Only the Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager shall be allowed to duplicate program storage media.

2. The Casino Operator or Casino Manager shall provide to the Division certified documentation, from the Manufacturer or copyright holder of the program storage media which is being duplicated, stating that the duplication of the program storage media is authorized.

3. The Casino Operator or Casino Manager shall assume the responsibility of complying with all rules and regulations regarding copyright infringement. Program storage media protected by the Manufacturer's federal copyright laws will not be duplicated for any reason or circumstance, unless approved otherwise by the Manufacturer and/or the Division.

4. Each duplicated program storage media shall be certified by the designated Gaming laboratory's signature for that program storage media.

B. Required Documentation

1. Each Casino Operator or Casino Manager shall maintain a program storage media Duplication Log which shall contain:

a. the name of the program storage media Manufacturer and the program storage media identification number of each program storage media to be erased;

b. serial number of program storage media eraser and duplicator;

c. printed name and signature of individual performing the erasing and duplication of the program storage media;

d. identification number of the new program storage media;

e. the number of program storage media duplicated;

f. the date of the duplication;

g. machine number (source and destination);

h. reason for duplication; and

i. disposition of permanently removed program storage media.

2. The log shall be maintained on record for a period of five years.

3. Corporate internal auditors shall verify compliance with program storage media duplication procedures at least twice annually.

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached white adhesive label containing the following:

a. manufacturer name and serial number of the new program storage media;

b. designated Gaming laboratory signature verification number;

c. date of duplication;

d. initials of Personnel performing duplication.

D. Storage of Program Storage Media and Duplicator/Eraser

1. Program storage media duplication equipment shall be stored with the security department or other department approved by the Division.

2. Equipment shall be released only to Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager.

3. At no time shall the Casino Operator or Casino Manager's Director of Slot Operations, Assistant Director of Slot Operations or Slot Technical Manager leave unattended the program storage media duplication equipment.

4. Program storage media duplication equipment shall only be released from the security department, or other department Approved by the Division, for a period not to exceed 4 hours within a 24 hour period.

5. An Equipment Control Log shall be maintained by the Casino Operator or Casino Manager and shall include the following:

a. Date, time, name of employee taking possession of, or returning equipment, and name of the Security Officer taking possession of or releasing equipment.

6. All Program storage media shall be kept in a secure area and the Casino Operator or Casino Manager shall maintain an inventory log of all Program storage media.

E. Internal Controls

1. The Casino Operator or Casino Manager shall adopt, and have Approved by the Division, internal controls which are in compliance with this section prior to duplicating program storage media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2319 (October 2000).

### §4212. Marking, Registration, and Distribution of Gaming Devices

A. No one, including a Casino Operator or Casino Manager, Permittee, Manufacturer or Supplier may ship or otherwise transfer a Gaming Device into this state, out of this state, or within this state unless:

1. a serial number (which shall be the same number as given the device pursuant to the provisions of §15 U.S.C. 1173 of the Gaming Device Act of 1962) permanently stamped or engraved in lettering no smaller than five millimeters on the metal frame or other permanent component of the EGD and on a removable metal plate attached to the cabinet of the EGD; and

2. a Manufacturer, Supplier, or Casino Operator or Casino Manager shall file forms as prescribed by the Division before receiving authorization to ship a device for use in the Louisiana Land Based Gaming Industry.

3. each Manufacturer or Supplier shall keep a written list of the date of each distribution, the serial numbers of the devices, the Division Approval number, and the name, state of residence, addresses and telephone numbers of the Person to whom the Gaming Devices have been distributed and shall provide such list to the Division immediately upon request;

4. a registration fee of $100 per device shall be paid by company check, money order, or certified check made payable to State of Louisiana, Department of Public Safety. This fee is not required on devices which are currently registered with the Division and display a valid registration certificate. Upon receipt of the appropriate shipping forms and fees, the Division shall issue a written authorization to ship for Approved devices. This fee is applicable only to Gaming Devices destined for use in Louisiana by the Casino or Suppliers;

5. prior to actual receipt of the shipment, the Casino Operator or Casino Manager shall notify the Division of the arrival. The Division shall require that the shipper's manifest or other shipping documents are verified against the Letter of Authorization for that shipment. The shipment shall also have been sealed at the point of origin, or the last point of shipment. The seal number shall be recorded on the shipping documents and attached to the Casino Operator or Casino Manager's copy of the Letter of Authorization;

6. the storage of the shipment, once properly received, shall be in a containment area that is secure from any other equipment. There shall be a dual key locking system for the containment area. The containment area shall have been inspected and Approved in writing by the Division prior to any EGD storage. All electronic control boards and/or program storage media shall be securely stored in a separate containment area from the EGD's. The containment area shall have been inspected and Approved in writing by the Division prior to any electronic control board and/or program storage media storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000).

### §4213. Approval to Sell or Disposal of Gaming Devices

A. No Gaming Device registered by the Division shall be destroyed, scrapped, or otherwise disassembled without prior written Approval of the Division. A Casino Operator or Casino Manager shall not sell or deliver a Gaming Device to a Person other than its affiliated companies or a Permitted Manufacturer or Supplier without prior written Approval of the Division. Applications for Approval to sell or dispose of a registered Gaming Device shall be made, processed, and determined in such manner and using such forms as the Division 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 26:2320 (October 2000).

### §4214. Maintenance of Electronic Gaming Devices

A. The Casino Operator or Casino Manager shall not alter the operation of an Approved EGD except as provided otherwise in the Board's rules and regulations and shall maintain the EGD's as required in this Chapter. The Casino Operator or Casino Manager shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the Game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the Division upon request. The written list of repairs for all EGD's shall be kept in a maintenance log book in the slot tech office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000).

### §4215. Analysis of Questioned Electronic Gaming Devices

A. If the operation of any EGD is questioned by any Casino Operator or Casino Manager, Patron or an Agent of the Division and the question cannot be resolved, the questioned device shall be examined in the presence of an agent of the Division and a representative of the Casino Operator or Casino Manager. If the malfunction can not be cleared by other means to the satisfaction of the Division, the Patron or the Casino Operator or Casino Manager, the EGD shall be disabled and be subjected to a program storage media memory test to verify signature comparison by the Division. Upon successful verification of the signature of the program storage media, and all malfunctions resolved, the EGD in question may be enabled for Patron play.

B. In the event that the malfunction can not be determined and corrected by this testing, the EGD may be removed from service and secured in a remote, locked compartment. The EGD may then be transported to the designated Gaming laboratory selected by the Division where the device shall be fully analyzed to determine the status and cause of the malfunction. All costs for transportation and analysis shall be borne by the 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 26:2320 (October 2000).

### §4216. Summary Suspension of Approval of Electronic Gaming Devices

A. The Board or Division may issue an order suspending Approval of an EGD if it is determined that the EGD does not operate in the manner certified by the designated gaming laboratory pursuant to this Chapter. The Board or Division after issuing an order may thereafter seal or seize all models of that EGD not in compliance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000).

### §4217. Seizure and Removal of Electronic Gaming Equipment and Devices

A. EGD's and Associated Equipment may be summarily seized by the Division. Whenever the Division seizes and removes EGD's and/or Associated Equipment:

1. an inventory of the equipment or EGD's seized will be made by the Division, identifying all such equipment or EGD's as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or EGD's will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the Casino Operator or Casino Manager or Permittee will be notified in writing by the Division at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or EGD is to be impounded. A copy of the inventory of the seized equipment or EGD will be provided to the Casino Operator or Casino Manager 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 26:2321 (October 2000).

### §4218. Seized Equipment and EGD's as Evidence

A. All Gaming equipment and EGD's seized by the Division shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the Division upon their seizure and may be disposed of by the Division, which disposition shall be documented as to date and manner of disposal;

2. the Division shall notify by certified mail each known claimant of a cheating device that the claimant has 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 B above will result in the Division's pursuit of the destruction of property;

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within 15 days after final determination;

5. items seized for inspection or examination may be returned by the Division 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 26:2321 (October 2000).

### §4219. Approval of Associated Equipment; Applications and Procedures

A. A Manufacturer or Supplier of Associated Equipment and/or Non-Gaming products shall not distribute Associated Equipment and/or Non-Gaming products unless such Manufacturer and/or Supplier has been Approved by the Division or Board. Applications for Approval of Associated Equipment and/or Non-Gaming products shall be made and processed in such manner and using such forms as the Division may prescribe. Each application shall include, in addition to such other items or information as the Division or Board may require:

1. the name, permanent address, social security number or federal tax identification number of the Manufacturer or Supplier of Associated Equipment and Non-Gaming products unless the Manufacturer or Supplier is currently Permitted by the Division or Board. If the Manufacturer or Supplier of associated equipment and Non-Gaming products is a corporation, the names, permanent addresses, social security numbers, and driver's license numbers of the directors and officers shall be included. If the Manufacturer or Supplier of Associated Equipment and Non-Gaming products is a partnership, the names, permanent addresses, social security numbers, driver's license numbers, and partnership interest of the partners shall be included. If social security numbers or driver's license numbers are not available, the birth date of the partners may be substituted;

2. a complete, comprehensive and technically accurate description and explanation in both technical and non-technical language of the equipment and its intended usage, signed under penalty of perjury;

3. detailed operating procedures; and

4. details of all tests performed and the standards under which such tests were performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2321 (October 2000).

Hillary J. Crain
Chairman

0010#005

## RULE

### Office of Public Safety and Corrections
### Gaming Control Board

Requirements for Licensing (LAC 42:XI.2405)

The Louisiana Gaming Control Board hereby amends LAC 42:XI.2405.B. in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950, et seq.

**Title 42**
**LOUISIANA GAMING**
**Part XI. Video Poker**

**Chapter 24. Video Draw Poker**

**§2405. Application and License**

A. - B.6 …

B. Requirements for Licensing

7. All applications shall include the name of the owner(s) of the premises on which the establishment is located. Proof of current tax filings and payments, including tax clearance certificates from the state and all appropriate local taxing authorities shall be submitted to the division along with the annual fee as provided in Subsection B.4. no later than July 1 of each year.

B.8 - C.7 …

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, 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 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2321 (October 2000).

Hillary J. Crain
Chairman

0010#002

## RULE

### Department of Social Services
### Rehabilitation Services

Independent Living Policy Manual (LAC 67:VII.Chapter 15)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Louisiana Rehabilitation Services has adopted the following rule in LAC 67:VII.Rehabilitation Services, Independent Living Policy Manual.

The rule governing Louisiana Rehabilitation Services policy relative to Independent Living is proposed in order to comply with H.R. 1385, Workforce Investment Act of 1998, Title IV Rehabilitation Act Amendments of 1998.

**Title 67**
**SOCIAL SERVICES**
**Part VII. Rehabilitation Services**

**Chapter 15. Independent Living Policy Manual**

**§1501. Agency Profile**

A. Mission. To assist persons with disabilities in their desire to achieve independence in their home or community and/or to assist a responsible individual to obtain or maintain employment by providing independent living services and by working cooperatively with other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Title VII, Chapter 1, Part B Independent Living Program;

2. Title VII, Chapter 2, IL Services for Older Individuals Who are Blind.

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Independent Living Program.

D. Exceptions. The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. Nondiscrimination. All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. Compliance with state laws, federal laws and Regulations, and Departmental Policies and Procedures. Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title VII of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G Cost-Effective Service Provision. Services shall be provided in a cost-effective manner.

H. Records. A record must be maintained for each applicant/client and shall contain documentation to support a counselor's decision regarding eligibility, and subsequent decisions to provide, deny, or amend services.

I. Data Collection. Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system as well as the Blind Registry.

J. Expeditious Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

K. Client Assistance Program. All programs, including centers for independent living, community rehabilitation programs, and projects that provide services to individuals with disabilities under the Rehabilitation Act Amendments of 1998 shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program, including information on means of seeking assistance under such program.

L. Equal Employment Opportunities

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs (including centers for independent living) supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with Title

VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

M. Affirmative Action Plan. LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bonafide occupational qualification.

N. Comprehensive System of Personnel Development. LRS will provide a comprehensive system of personnel development in accordance with the Rehabilitation Act Amendments of 1998.

O. Applicant/Client. For purposes of representation, the term applicant/client refers to an individual who has applied for independent living services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. Cooperative Agreements. LRS will use services provided under cooperative agreements as comparable services and benefits.

Q. Services to American Indians with Disabilities. LRS will provide independent living services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will include, as appropriate, services traditionally available to Indian tribes on reservations.

R. Misrepresentation, Fraud, Collusion, or Criminal Conduct

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's independent living case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/or recommendation regarding judicial action. If Department of Social Services, Bureau of General Counsel determines, through reviewing case data, that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. Informed Choice. LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the independent living process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services; and

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Independent Living Plan.

T. Construction. Nothing in this Policy Manual shall be construed to create an entitlement to any independent living service.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S.49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2322 (October 2000).

### §1503. Enabling Legislation

A. The Rehabilitation Act Amendments of 1998, as contained in H.R. 1385, Workforce Investment Act of 1998.

B. Code of Federal Regulations. Volume 34, Sections 364, 365, 366, and 367.

C. Louisiana Revised Statutes

1. R.S. 49:664, Section 6B (1)(b) (Legislative Act that created the Department of Health and Hospitals), R.S. 36:477(c) (Legislative Act that created the Department of Social Services).

2. R.S. 46:331-335 mandates that a register be maintained of all persons known to be legally blind in the state. (Louisiana Rehabilitation Services maintains and regularly updates the Blind Registry.)

3. Act 19 of 1988 effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

4. Act 109 of 1984, R.S. 39:1595.3, and Act 291 of 1986, R.S. 39:1594(I), enacted and authorized the State Use Law.

5. Act 10 of 1994, R.S. 18:59(I)(2), 61(A)(1), 62(A), 103(A), enacted and authorized to provide for the implementation of the National Voter Registration Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2323 (October 2000).

### §1505. Confidentiality

A. General Statement. All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the agency intends to use or release the requested data;

3. whether individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is not needed for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client is being referred for services under the circumstances for which the client's consent may be presumed;

b. the Louisiana Department of Labor and military services of the United States government;

c. doctors, hospitals, clinics, centers for independent living, and rehabilitation centers providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2.a. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program).

b. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. it will not be released to persons not connected with the study under consideration; and

iii. the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

c. Information for research, audit, or evaluation will be issued only on the approval of the director.

d. The client must be advised of these conditions.

3. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or to the safety of others.

D. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

F. Confidentiality-HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

a. inform the regional manager or designee of the request;

b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;

c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Department of Social Services' legal counsel.

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

a. notify the regional manager or designee;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;

ii. the subpoenaed case record information is in agency possession;

iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2323 (October 2000).

### §1507. Applicant/Client Appeal Rights

A. Administrative Review

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a means to delay a fair hearing conducted by an Impartial Hearing Officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services. Services will continue during the administrative review appeal process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their independent living case, adequate notification by the counselor must include:

a. the agency's decision;

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the regional manager who should be contacted in order to schedule an administrative review or fair hearing.

Note: All administrative reviews must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

B. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant's/client's representative) must be through the public court system.

2. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review or as a direct avenue of appeal bypassing the administrative review option. The fair hearing will be conducted by an Impartial Hearing Officer.

3. An Impartial Hearing Officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

4. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services.

5. Services will continue during the fair hearing process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

a. the agency's decision (inclusive of an administrative review, if conducted);

b. the basis for, and effective date of, that decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2324 (October 2000).

### §1509. Eligibility and Ineligibility

A. Criteria for Eligibility. To be eligible for independent living services, an applicant must be an individual:

1. with a severe physical or mental impairment which substantially limits the individual's ability to function independently in the family or community, and

2. for whom the delivery of independent living services will improve their ability to function, continue functioning, or move towards functioning independently in the family or community.

B. Determinations by Officials of Other Agencies. To the extent appropriate and consistent with the requirements of this section, LRS will use determinations made by officials of other agencies regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which

for such individual substantially limits their ability to function independently.

C. Compliance Provisions.

1. Nondiscrimination and Nonexclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served.

D. Determination of Inelig ibility

1. A determination of ineligibility for independent living services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which substantially limits an individual's ability to function independently in the family or community; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require independent living services to function independently in the family or community; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefitting from independent living services, in terms of becoming more independent in the home and/or community.

2. If an individual who applies for independent living services is determined (based on clear and convincing evidence) not eligible for services, or if an eligible individual receiving services under an Independent Living Plan (ILP) is determined to be no longer eligible for services, LRS shall:

a. provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. inform the individual, or as appropriate, the individual's representative, in writing of:

i. the reason(s) for the ineligibility determination; and

ii. an explanation of the means by which the individual may express and seek a remedy for any dissatisfaction with the determination, including the procedures for review by an Impartial Hearing Officer and the availability of services from the Client Assistance Program; and

iii. a referral to any other agencies or programs from whom the individual may be eligible to receive services, including a center for independent living or other components of the statewide workforce investment system.

3. LRS shall review the applicant's ineligibility at least once within 12 months after the ineligibility determination has been made and whenever is has been determined the applicant's status has materially changed. This review need not be conducted in situations where the applicant has refused the review, the applicant is no longer present in the state, or the applicant's whereabouts are unknown.

E. Use of Existing Information. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for independent living services, LRS shall use information that is existing and current (as of the current functioning of the individual), including information available from the individual, other agencies and programs.

F. Eligibility for Nursing Home Residents. Eligibility is met if independent living services rendered enables the individual to permanently leave the nursing home or to participate in other ongoing community or family activities which will enhance the quality of the individual's life outside of the facility.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2325 (October 2000).

**§1511. Information and Referral Services**

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. To ensure that individuals with disabilities receive accurate independent living information to assist such individuals in functioning more independently in the family and/or community; and

2. To ensure that such individuals, as appropriate, are referred to other federal and state programs, including centers for independent living.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational services:

i. individualized guidance and counseling;

ii. assistance in locating appropriate support groups;

iii. assistance in securing appropriate community services;

iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate federal or state program, including centers for independent living, that is best suited to address the specific needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and

ii. information identifying a specific point of contact within the agency carrying out the program; and

iii. information and advice regarding the most suitable services to assist the individual to function more independently in the family and/or community.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2326 (October 2000).

### §1513. Comprehensive Assessment

A. Purpose

1. To make a determination of the independent living needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of independent living services required for development of the Independent Living Plan (ILP) of an eligible individual.

B. Scope. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the independent living needs of the eligible individual and to develop the Independent Living Plan (ILP).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2326 (October 2000).

### §1515. Independent Living Plan (ILP)

A. Purpose. The purpose of the Independent Living Plan, hereafter referred to as ILP, and all subsequent amendments is to assure that each individual determined eligible for independent living services shall have a formal plan, jointly developed and agreed upon by the individual (or as appropriate the individual's family member or other authorized representative) and the LRS counselor.

B. Client Choice and Client Participation. The format of the ILP, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's ILP will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an independent living goal, intermediate objectives, services and service providers. The client (or where appropriate, the client's parent, guardian or other representative) must sign the ILP and must receive a copy of the original ILP and amendments.

C. Mandatory Components of an ILP. An ILP shall, at a minimum, contain components consisting of the following:

1. the specific independent living goals chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual;

2. the specific independent living services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the independent living goal;

3. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;

4. a time frame for the achievement of the independent living goal;

5. the entity chosen to provide the independent living service and the methods to procure such services;

6. the criteria to evaluate the individual's progress towards achievement of the independent living goal;

7. the terms and conditions of the ILP, including, as appropriate, information describing:

a. responsibilities of LRS;

b. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the independent living goal;

c. if applicable, the participation of the eligible individual in paying for the costs of the planned services;

d. responsibility of the eligible individual with regard to applying for and securing comparable benefits;

e. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits;

8. the rights and remedies available to the individual through the Appeals Process and information regarding the availability of the Client Assistance Program.

D. Review and Amendment

1. The ILP shall be reviewed as least annually by a qualified LRS counselor and the eligible individual, or as appropriate, the individual's representative; and

2. Amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a LRS counselor.

E. ILP Document

1. An ILP shall be a written document prepared on forms provided by LRS.

2. An ILP shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an independent living goal, the specific independent living services to be provided under the ILP, the entity that will provide the independent living services, and the methods used to procure the services consistent with Informed Choice as defined in LRS in Chapter 1, Section S of this policy manual.

3. An ILP shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified counselor employed by LRS.

4. A copy of the ILP shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2327 (October 2000).

### §1517. Financial

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any independent living service to an eligible individual, LRS will determine whether comparable services and benefits are available under any other program (including programs carried out under Title I, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay;

i. the provision of such service to any individual at extreme medical risk, with such risk documented by an appropriate Licensed Medical Professional. "Extreme Medical Risk" is defined as a risk of substantially increasing functional impairment or risk of death if services are not provided expeditiously.

2. Exceptions to Use of Comparable Services and Benefits

a. The following independent living services can be provided without making a determination of the availability of comparable services and benefits:

i. services provided through LRS' Information and Referral System;

ii. assessment for determining eligibility and independent living needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS.

B. Individual's Participation in the Cost of IL Services.

1. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals for purposes of determining the extent of the individual's participation in the costs of certain independent living services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following independent living services:

i. assessment for determining eligibility;

ii. assessment for determining independent living needs;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. rehabilitation technology assessments.

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following independent living services:

i. counseling services, including psychological, psychotherapeutic and related services;

ii. services related to housing or shelter, including appropriate accommodations to, and modifications of, any space used to serve, or occupied by, individuals with disabilities;

iii. rehabilitation technology;

iv. personal assistance services, including attendant care;

v. consumer information programs on rehabilitation and independent living services;

vi. supported living;

vii. transportation;

viii. physical rehabilitation;

ix. therapeutic treatment;

x. provision of needed prostheses and other appliances and devices;

xi. individual and group social and recreational services;

xii. appropriate preventive services to decrease the need of individuals receiving IL services for similar services in the future;

xiii. any other IL service available under the State Plan for Independent Living which are appropriate to the IL needs of the eligible individual.

c. An individual's status for the budget analysis will be determined as follows:

i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;

ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home.

iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a). the individual's disability has precluded their obtaining or maintaining employment; and

(b). the individual has a documented history of self-sufficiency that includes providing over one-half the costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c). the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes.

d. Family unit is defined as the client and the client's parents or the client and any significant other(s), such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

e. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those independent living services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

f. Simultaneously with the comprehensive assessment, at the annual review of the ILP, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring independent living services as listed above. The amount of client participation in the cost of their independent living program will be based upon the most recent budget analysis at the time the relevant ILP or amendment is developed.

2. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate. LRS does not renovate or remodel housing.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of independent living clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2327 (October 2000).

### §1519. Independent Living Services

A. Independent Living Services are time limited services described in an ILP necessary to assist an individual with a disability in their desire to achieve independence in their home/community and are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and independent living needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;
2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;
3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;
4. independent living skills training;
5. psychological, psychotherapeutic, and related services;
6. services related to housing or shelter, including services related to community group living, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);
7. rehabilitation technology;
8. mobility training;
9. services and training for individuals with cognitive and sensory disabilities, impairments, including life skills training;
10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet state license law;
11. personal assistance services, including attendant care and the training of personnel providing such services;
12. activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;
13. education and training necessary for living in a community and participating in community activities;
14. supported living;
15. transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;
16. physical rehabilitation;
17. therapeutic treatment;
18. provision of needed prostheses and other appliances and devices;
19. individual and group social and recreational services;
20. training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;
21. services for children;
22. appropriate preventive services to decrease the need of individuals assisted through the independent living program for similar services in the future;
23. community awareness programs to enhance the understanding and integration into society of individuals with disabilities;
24. consumer information programs on rehabilitation and independent living services, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved; and
25. such other services as may be necessary and not inconsistent with the objectives listed in the State Plan for Independent Living.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services.
2. LRS will not provide experimental services or supplies.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2329 (October 2000).

### §1521. Conditions for Case Closure

A. Options for Closure. An individual's case can be closed at any time in the independent living process when it has been determined that:

1. the individual is not available for services;
2. the individual is ineligible;
3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate.

B. Closure as Successfully Achieving IL Goal. In order to close a case as successfully achieving an IL goal, the case record must include:

1. documentation the client was determined eligible for services;
2. documentation the client was provided an assessment of IL potential;
3. documentation appropriate services were provided in accordance with the ILP;

4. documentation showing the basis on which the individual has met the goal of living more independently;

5. documentation the client has been informed the case is being closed as having successfully achieved IL goal.

C. Content of the ILP for Case Closure as Ineligible. The ILP and amendments relating to the case closure in cases of ineligibility based on the decision that the individual is not capable of achieving an independent living goal, must document with clear and convincing evidence that the individual is incapable of benefitting from independent living services. Such decisions shall be reviewed and reassessed twelve months from the date of closure.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2329 (October 2000).

J Renea Austin-Duffin
Secretary

0010#060

## RULE

**Department of Transportation and Development**
**Office of the General Counsel**

Outdoor AdvertisingCUnique Traffic Generators
(LAC 70:I.112 and 205)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Transportation and Development hereby promulgates a rule entitled "Outdoor AdvertisingCUnique Traffic Generators," in accordance with R.S. 48:461 and R.S. 32:238(B).

**Title 70.**
**TRANSPORTATION**
**Part I. Office of the General Counsel**
**Chapter 1. Outdoor Advertisement**
**Subchapter A. Outdoor Advertising Signs**
**§112. Unique Traffic Generators**

A. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Specific Services Signing (LOGO). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 and R.S. 32:238(B).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 26:2330 (October 2000).

**Chapter 2. Installation of Tourist Oriented Directional Signs (TODS)**
**§205. Unique Traffic Generators**

A. - G. …

H. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Tourist Oriented Directional Signs (TODS). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 12:1596 (December 1993), LR 22:230 (March 1996), LR 26:2330 (October 2000).

Kam K. Movassaghi, P.E., Ph.D
Secretary

0010#013

## RULE

**Department of Transportation and Development**
**Office of Weights and Standards**

Annual Heavy Equipment Permit
(LAC 73:I.315)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Transportation and Development hereby promulgates a rule entitled "Weights and Standards Annual Heavy Equipment Permit," in accordance with R.S. 32:387.14.

**Title 73**
**TRANSPORTATION**
**Part I. Office of Weights and Standards**
**Chapter 3. Oversize and Overweight Permit**
**§315. Annual Heavy Equipment Permit**

A. Requirements

1. Maximum Weight. This permit may be issued by the department for the operation of vehicles transporting heavy equipment with a gross vehicle weight not to exceed 120,000 pounds.

2. Maximum Dimensions. Oversize dimensions of 14 feet 4 inches in maximum height, 12 feet 0 inches in maximum width, 90 feet 0 inches in maximum length, and a maximum rear overhang of 15 feet 0 inches shall be allowed under this permit and included in the cost of this permit. Loads with dimensions exceeding the envelope vehicle described above must obtain a separate oversize/overweight trip permit.

B. Routing. Vehicles which are issued this permit are prohibited from crossing bridges with posted weight limits and from travel in restricted construction zones. Routing, which includes all vertical clearances, will be the responsibility of the permittee.

C. Permit Price. The cost of the permit is $2,500.00 per year, the maximum price set forth in R.S. 32:387.14. Permits expire one year from the beginning movement date. The permit will be issued for the pulling unit and is non-transferable and non-refundable.

D. Axle Requirements

1. Overweight vehicle combinations with a gross vehicle weight from 80,000 pounds to 108,000 pounds are required to have a minimum of five load-carrying axles.

2. Overweight vehicle combinations with a gross vehicle weight from 108,000 pounds to 120,000 pounds are required to have a minimum of six load-carrying axles.

E. Methods of Payment. The cost of the permit may be paid by the following methods:

1. charge account;

2. credit card (master card or visa);

3. check;
4. cashier=s check; or
5. money order.

Permittee must send the appropriate payment or payment information (account number, credit card information, etc.), accompanied by a completed application form and signed agreement form, to the Truck Permit Office, Department of Transportation and Development, P.O. Box 94042, Baton Rouge, Louisiana 70804-9042.

F. Permit Conditions

1. This permit must be carried within the vehicle using same, and must be available at all times for inspection by the appropriate authorities.

2. This permit is subject to revocation or cancellation by the department at any time.

3. The permittee assumes responsibility for and obligates himself to pay for any damages caused to highways, roads, bridges, structures, or any other state-owned property while using this permit. Issuance of the permit is not assurance or warranty by the state or the Department of Transportation and Development that the highways, roads, bridges and structures are capable of carrying the vehicle and load for which this permit is issued; nor shall issuance stop the state or said department from any claim which may arise for damage to its property.

G Indemnification. The permittee accepts the permit at his own risk. The permittee must agree to defend, indemnify and hold harmless the department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, cost or expense including attorney fees sustained by reason of the exercise of the permit, whether or not the same may have been caused by negligence of the department, its agents or employees. By exercising this permit, permittee certifies that the information supplied by him contained in his permit application is correct; that he made application to induce the issuance of the permit; that he fully understands all the provisions and requirements of the permit and of said R.S. 32:388(B)(I) and 32:387.14; and that he accepts all conditions and assumes all of the obligations imposed thereby.

H. Movement Days and Times. Vehicles exercising this permit are prohibited from traveling on certain holidays designated by the department. If all of the oversize dimensions are within legal limits, and the load being transported is completely within the confines of the hauling vehicle, the vehicle will be granted 24 - hour movement, as well as holiday movement.

I. Weather. Permitted vehicles are prohibited from traveling during weather which is physically severe, such as extremely heavy rain, heavy fog, icy road conditions, heavy snow, or any continuous condition which creates low visibility for drivers or hazardous driving conditions.

J. Speed Limits. The permitted vehicle is not to exceed a speed limit of 55 miles per hour.

K. Curfews. The load may not cross any bridge spanning the Mississippi River in the New Orleans area or be within two miles of such bridge from 6:30 - 9:00 a.m. and from 3:30 - 6:00 p.m. Monday through Friday.

L. Flags and Warning Signs. Flags not less than 18 inches square are required for vehicles and loads which exceed the legal width. Vehicles and loads exceeding 10 feet in width, exceeding legal length or the legal rear end overhang must display signs with the wording oversize load. All warning signs must be at least 7 feet long and 18 inches high. The background must be yellow and the letters black. Letters must be at least 10 inches high with a brush stroke of 1 1/2.

M. Following is a model of the permit application form.

Heavy Equipment Annual Permit Application

| Customer Number: | Requested Beginning Date: |
|---|---|
| Company Name: | |
| Address: City: State: Zip: | |
| Truck Make/Model: | Serial Number (Vin): |
| License Number: | State: |

____________________________
Permittee Signature

____________________________
Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:387.14.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 26:2330 (October 2000).

John P. Basilica, Jr.
Undersecretary

0010#014

## RULE

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

Black Drum Size Limit, Daily Take Possession Limits and Quotas (LAC 76:VII.331)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.331, abolishing the monthly reporting requirement for the commercial take of black drum over 27 inches total length. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

**Title 76**
**WILDLIFE AND FISHERIES**
**Part VII. Fish and Other Aquatic Life**
**Chapter 3. Saltwater Sport and Commercial Fishing**
**§331. Black Drum Size Limits, Daily Take, Possession Limits, and Quotas**

A. - A.2. …

3. The maximum legal size for the recreational taking of black drum shall be 27 inches total length; provided however that recreational fishermen shall be allowed to take and possess no more than one black drum per day over 27 inches. It is provided further that commercial harvesters using legal gear shall be allowed to take and possess and sell black drum over 27 inches in unlimited quantities until the annual quota has been met in compliance with all other rules and regulations.

4. The annual commercial quota for 16 to 27 inch black drum shall be 3,250,000 pounds.

5. The annual commercial quota for black drum over 27 inches shall be 300,000 fish.

6. The fishing year for black drum shall begin on September 1, 1990 and every September 1 thereafter.

7. Once the black drum commercial quota(s) has been met, the purchase, barter, trade or sale of black drum taken in Louisiana after the closure is prohibited. The commercial taking or landing of black drum in Louisiana, whether caught within or without the territorial waters of Louisiana after the closure is prohibited. Nothing in this rule shall be deemed to prohibit the possession of fish legally taken prior to the closure order.

8. The secretary of the Department of Wildlife and Fisheries shall, by public notice, close the commercial fishery(s) for black drum when the quota(s) has been met or is projected to be met. The closure shall not take effect for at least 72 hours after notice to public.

AUTHORITY NOTE: Promulgated in accordance with, R.S. 56:6(10), R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990), amended LR 26:2331 (October 2000).

Thomas M. Gattle, Jr.
Chairman

0010#038

## RULE

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

Harvest of Mullet
(LAC 76:VII.343)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.343, abolishing the monthly reporting requirement for the commercial harvest of striped mullet. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

**Title 76**
**WILDLIFE AND FISHERIES**
**Part VII. Fish and Other Aquatic Life**
**Chapter 3. Saltwater Sport and Commercial Fishing**
**§343. Rules for Harvest of Mullet**

A. - D. …

E. Permits

1. - 3. …

4. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take mullet and shall be forever barred from receiving any permit or license to commercially take mullet.

F. General Provisions. Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of mullet legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

G …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1, R.S. 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992) amended LR 21:37 (January 1995), LR 22:236 (March 1996), LR 24:359 (February 1998), LR 26:2332 (October 2000).

Thomas M. Gattle, Jr.
Chairman

0010#036

## RULE

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

Pompano Permits (LAC 76:VII.703)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.703, abolishing the monthly reporting requirement for the commercial harvest of Florida pompano. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

**Title 76**
**WILDLIFE AND FISHERIES**
**Part VII. Fish and Other Aquatic Life**
**Chapter 7. Experimental Fisheries Program**
**§703. Pompano Permits**

A. Harvest Regulations

1. - 2. …

3. When operating under the conditions of a permit, only pompano can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

4. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferable without written permission from the department secretary.

5. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

6. Any violation of the conditions of the permit shall result in the immediate suspension of the permit, and may result in the permanent revocation of the permit.

7. For permitting purposes, a pompano net shall be defined as a pompano strike net not exceeding 2400 feet in length and not smaller than 2-1/2 inches bar or 5 inches stretched mesh, that is not anchored or secured to the water bottom and that is actively worked while being used. A pompano net shall not be constructed of monofilament.

8. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the operator's permit number printed on it in at least eight-inch high letters on a contrasting background so

as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

9. Pompano strike nets may be used during the period from August 1 through October 31 of each year in waters in excess of seven feet in depth and beyond 2,500 feet from land (excluding islands) within the Chandeleur and Breton Sound area described in R.S. 56:406(A)(2).

10. No person shall fish under this permit during the hours after sunset and before sunrise. No person shall fish under this permit on Saturday or Sunday of any week during the open season, or on Labor Day.

11. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take pompano. The department shall not issue any tag to a person who does not have a social security number.

12. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

13. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

14. - B. 4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a) and R.S. 56:406A(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:846 (December 1986), amended by the Office of Fisheries, LR 16:322 (April 1990), LR 22:859 (September 1996), amended by the Wildlife and Fisheries Commission, LR 26:2332 (October 2000).

Thomas M. Gattle, Jr.
Chairman

0010#035

## RULE

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

Spotted Seatrout Management Measures
(LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.341, abolishing the monthly reporting requirement for the commercial harvest of spotted seatrout. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

**Title 76**
**WILDLIFE AND FISHERIES**
**Part VII. Fish and Other Aquatic Life**
**Chapter 3. Saltwater Sport and Commercial Fishing**
**§341. Spotted Seatrout Management Measures**

A. Commercial Season; Quota; Permits

1. - 4.c. …

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

B. Commercial Taking of Spotted Seatrout Using Mullet Strike Nets, Seasons

B.1. - D. …

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); R.S. 56:325.3; R.S. 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000).

James H. Jenkins, Jr.
Secretary

0006#089

## RULE

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

Traversing Permit (LAC 76:VII.403)

The Wildlife and Fisheries Commission does promulgate a Rule, LAC 76:VII.403, abolishing the monthly reporting requirement for traversing permit holders. Authority for adoption of this Rule is included in R.S. 56:6(25)(a).

**Title 76**
**WILDLIFE AND FISHERIES**
**Part VII. Fish and Other Aquatic Life**
**Chapter 4. License and License Fees**
**§403. Traversing Permit**

A. - G. …

H. Permittees will be required to abide by the following conditions.

1. - 2. …

3. When permitted gear is on board the permitted vessel or in possession of the permittee, the permittee and the vessel are assumed to be operating under authority of the permit. No gear other than gear allowed under the Traversing Permit may be on board the vessel or in possession of the permittee.

4. The vessel authorized for use under the Traversing Permit shall have distinguishing signs so that it may be identified as such. The signs shall have the letters "EEZ" and assigned numbers printed on them in at least 10-inch high letters and numbers on a contrasting background in block style so as to be visible and legible from low-flying aircraft and from any vessel in the immediate vicinity. The assigned numbers shall be situated on both sides and on top of the vessel.

5. The department reserves the right to observe the operations taking place under the Traversing Permit and, at its request, the department may assign aboard any permitted vessel an enforcement agent as an observer.

6. All permittees shall notify the department four hours prior to leaving port to traverse or fish under the conditions of the Traversing Permit and immediately upon returning from the permitted trip. The department shall be notified by calling a designated phone number.

7. The permittee must report to the department the name of the buyer who will purchase the fish product

obtained under the Traversing Permit. This information shall be provided at the time that permittee notifies the department of his return.

8. When quotas have been met or seasons have been closed, no fish affected by such quotas or seasons may be possessed on board a vessel while having commercial gear on board traveling state waters.

9. Any violation of the conditions of the Traversing Permit and any violation of any fisheries regulation shall be punishable as defined by R.S. 56:320.2.D.(1) in accordance with Act 1316 of the 1995 Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:305.B, and R.S. 56:320.2.E.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:240 (March 1996), amended LR 26:2333 (October 2000).

James H. Jenkins, Jr.
Secretary

0010#034

# Notices of Intent

## NOTICE OF INTENT

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

Residential Mortgage LendingCContinuing Education
(LAC 10:XII.101-113)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1085 and R.S. 6:1094(A) of the Residential Mortgage Lending Act, (RMLA), the Commissioner of Financial Institutions hereby promulgates the following rule to provide guidelines governing required professional education for licensure pursuant to the RMLA by establishing requirements, procedures and standards for persons intending to participate in the RMLA continuing education program by conducting educational programs regarding licensure activity pursuant to the RMLA.

**Title 10**
**FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC**
**Part XII. Residential Mortgage Lending**
**Chapter 1. Residential Mortgage Lending Program**
**§101. Purpose**

This Rule establishes minimum requirements that a certified continuing education facilitator must meet; procedures and standards for the facilitator's certification; and a procedure for verifying that continuing education requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

**§103. Procedures and Standards for Facilitator Course Certification**

A. Persons who want to participate in the Residential Mortgage Lending Continuing Education Program as a Facilitator must obtain certification by the commissioner of Financial Institutions ("commissioner") before engaging in that activity. Facilitators are subject to review by the Residential Mortgage Lending Board and must demonstrate their ability to provide an educational program that includes quality student materials and instructors with knowledge, experience and teaching skills necessary to improve the professional level of licensees. A facilitator must submit to the board the following not less than 30 days prior to the expected use of the program and pay a $500 course evaluation fee as provided by R.S. 6:1094(C)(2). The commissioner may waive the 30-day requirement for good cause upon written request.

1. Continuing Education Facilitator Application on a form provided by the commissioner, along with its required attachments.

2. A copy of the student workbook and materials and a course outline on subject matter chosen from the approved topic list provided by the commissioner. The outline shall include presentation time specifications, a list of resource material, training aids, and the method of presentation.

a. If a facilitator submits a course with copyrighted materials, every student must be provided with original materials as part of the registration. No substitute texts, outlines, summaries or copyright infringements will be allowed.

b. Proprietary student material must be submitted to the board for review based on its own merits and must not infringe on existing copyright materials.

c. Description of the course material provider's method and frequency of updates to insure the integrity of the material.

3. Evidence that the course material is current and includes new developments in the residential mortgage business.

4. Any course that has not been certified by the Commissioner before the date on which it is to be presented shall not be represented or advertised in any manner as "certified" for continuing education credit.

5. Certification is for one year. A Facilitator may be re-certified by providing evidence that course materials are current and include recent changes in federal and state laws, rules, and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

**§105. Course Requirements**

A. Each certified facilitator conducting courses in Louisiana must meet the following requirements.

1. Courses must consist of at least eight hours of certified continuing education courses on topics submitted with the application and chosen from the approved topic list on a form provided by the commissioner.

2. Two hours of rmla Orientation covering the Office of Financial Institutions' (OFI) application process, examination, and general overview of the Residential Mortgage Lending Act. OFI will provide material to instructors.

3. Classes will be in a live setting only; internet or correspondent courses will not be allowed.

4. One credit hour will be given for 50 minutes of instruction.

5. A minimum of ten hours of certified courses must be conducted once monthly in New Orleans, Baton Rouge, or Shreveport. Courses must be conducted in each of these cities at least once per quarter.

6. A training schedule on a form provided by the commissioner must be submitted with each request for certification and re-certification. Any change in this schedule must be filed with the commissioner not less than seven days prior to the scheduled date.

7. Registration fee for 10-hour program shall not exceed $400.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

### §107. Training Facility Requirements

A. The training facility must be easily accessible and secure for the safety of the student. It must comply with all applicable state and federal laws, including but not limited to the Americans with Disabilities Act of 1990.

B. An atmosphere conducive to the education presentation shall be maintained, including good housekeeping; controlled environment as to heating and cooling; proper lighting; and proper furnishings.

C. The instructional area of the facility should be for the exclusive use of the instructional course while in session.

D. The Facilitator is responsible for adequate training aids, overhead viewing equipment availability and proper visual layout of the classroom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

### §109. Procedures for Verifying Continuing Education Credits

The facilitator must submit a list of all participants who complete their course to the commissioner in a format approved by the commissioner. The list must be submitted within five business days of the course. The facilitator shall issue a certificate on a form approved by the commissioner, to each individual within 10 business days of successfully completing the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:

### §111. Program Review—Disciplinary Action

A. The commissioner, his designee, or a board member with approval of the commissioner shall have the authority to visit a training facility and review the facilitator's program at any time. Visits may include the review of curriculum records, review of attendance records and observation of instructional sessions in progress.

B. The certification of a facilitator may be suspended or revoked by the commissioner if he determines that:

1. the facilitator's teaching method or curriculum does not meet the standards of this rule or has been significantly changed from that submitted for certification without notice to the commissioner for approval;

2. the facilitator certifies to the commissioner that an individual has completed an approved course in accordance with the standards furnished for certification or completion of the program, when in fact the individual has failed to do so;

3. the facilitator fails to issue a certificate to an individual who has satisfactorily completed the seminar in accordance with the standards furnished for certification; or

4. the commissioner determines there is good and just cause to suspend or revoke certification.

C. Reinstatement of a suspended certification may be made upon the furnishing of proof satisfactory to the commissioner that the conditions responsible for the suspension have been corrected.

D. The commissioner, his designee, or the board at the commissioner's direction, shall review all written complaints lodged against a facilitator or instructor. A meeting may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. If the facilitator's certification is suspended, the facilitator must respond to the commissioner within 15 days after receiving notice of such suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

### §113. Facilitators for Courses Conducted Out of State

A. Certified Facilitators who provide courses at locations out of state must comply with all parts of this Rule except for §105.A.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

Any interested person may submit written comments regarding the contents of the proposed Rule to Gary L. Newport, Chief Attorney, Office of Financial Institutions, in person to: 8660 United Plaza Boulevard, Second Floor, Baton Rouge, Louisiana, 70809; or by mail to Louisiana Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 4:30 p.m. November 20, 2000.

John D. Travis
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Residential Mortgage Lending—Continuing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in an approximate cost of $1,000 annually for travel expenses incurred by the residential mortgage lending board to attend board meetings. In addition a one-time cost of $60 will be incurred to publish this Proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a $500 fee collected from each educational provider. It is estimated that there will be five for a total revenue of $2,500.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Estimated expenses to the mortgage loan originators will be up to $400 per year. There are approximately 1,500 originators in Louisiana resulting in up to $600.00 which they will pay to the educational providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment because all originators will be required to attend continuing education classes.

| | |
|---|---|
| John D. Travis | John R. Rombach |
| Commissioner | Legislative Fiscal Officer |
| 0010#053 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Economic Development
### Racing Commission

Account Wagering (LAC 35:XIII.12001-12035)

The Louisiana State Racing Commission hereby gives notice that it intends to adopt LAC 35:XIII.Chapter 120 AAccount Wagering,@ (§12001 through §12035) to provide for account wagering at Louisiana race tracks, off-track wagering facilities and other locations which may have the potential of increasing the handle by allowing patrons to set up an account whereby wagers will be placed in lieu of cash transactions.

This proposed rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

**Title 35**
**HORSE RACING**
**Part XIII. Wagering**

**Chapter 120. Account Wagering**

**§12001. Definitions**

*Account Holder*Ca person authorized by the licensee to place wagers via account wagering.

*Account Wager*Ca wager placed by means of account wagering.

*Account Wagering*Ca form of pari-mutuel wagering in which an individual may deposit money in an account with a licensee and use the account balance to pay for pari-mutuel wagering authorized by R.S. 4:149.5 to be conducted by the licensee. An account wager may be made by the account holder in person, via telephonic device or by communication through other electronic media.

*Account Wagering Center*Cthe facility or facilities for maintaining and administering the account wagering system.

*Wagering Account* or *Account*Cthe account maintained and administered through an account wagering center for account holders who wish to place account wagers and otherwise participate in account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12003. Authorization**

A. A system of account wagering may be operated only by a licensee, or employees or agents of such licensee, who is/are authorized to do so pursuant to R.S. 4:149.5(B)(1). The authorized licensee may, subject to applicable state and federal laws, conduct account wagering on any races conducted at its facility and on any races conducted at other facilities, within or outside of this state. Wagering accounts may be established for an individual whose principal residence is outside this state if the racing association complies with all applicable provisions of federal and state law. All wagers placed through the licensee=s system of account wagering shall be considered to have been made in this state.

B. An authorized licensee may not accept wagers from residents located in proximity to the racing facility of another licensee as provided for in R.S. 4:214(A)(3), without having provided the commission with sufficient evidence of how the authorized licensee intends to identify such account holders and pay to such other licensee the source market percentage required to be paid pursuant to R.S. 4:149.5(B)(2).

C. A licensee of race meetings shall provide the commission with written evidence of its consent to the acceptance, by an operator of a system of account wagering located outside this state, of wagers placed with such account wagering system by residents or other persons located within or outside of this state on races conducted in this state by that licensee. In the absence of such written evidence, no system of account wagering located outside this state may accept such wagers.

D. A licensee of race meetings authorized pursuant to R.S. 4:149.5(B)(1) to conduct account wagering in this state shall provide the commission with written evidence of its consent to the acceptance, by an operator of a system of account wagering located outside this state, of wagers placed with such account wagering system by residents or other persons located within this state on races conducted outside this state. In the absence of such written evidence, no system of account wagering located outside this state may accept such wagers.

E. A licensee, as defined in R.S. 4:149.5, may conduct account wagering made in person, by telephonic device or by communication through other electronic media. The maintenance and operation of account wagering shall be in accordance with the *Rules of Racing* and R.S. 4:149.5. The licensee shall request authorization and receive approval from the commission before a system of account wagering is offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12005. Establishment**

A. The licensee may offer a system of account wagering to its patrons whereby wagers are debited in, and payouts credited to, an account in the name of the patron, that is held by the licensee. The licensee shall notify the patron, at the time of opening the account, of any rules or procedures the licensee has adopted concerning deposits, withdrawals, average daily balances, user or service fees, interest payments, hours of operation, and any other aspect of the operation of the account. The licensee shall notify the patron whenever the rules governing the account are changed and shall endeavor to provide such notification before the new rules are applied to the account and including the opportunity to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operation upon opening or not closing the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12007. Compliance**

A. Account wagering shall be conducted in compliance with the *Rules of Racing* and all applicable state and federal laws. Unless elsewhere specifically set forth, an account wager shall be subject to the statutory provisions and rules and regulations which govern all pari-mutuel wagers placed within the enclosure at which the licensee is authorized to conduct race meetings. From each account wager, there shall

be deducted the same percentage as is deducted on a wager if made in person in the same wagering pool at the licensee=s race track.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12009. Wagering Pools**

A. The total amount of all account wagers shall be included in the respective pools for each race and shall be combined into the licensee=s pools or, with approval of the commission, directly into the corresponding pools of a host track in another jurisdiction. The amount wagered in such pools from wagering accounts shall be debited accordingly, and any winnings shall be automatically credited to such accounts upon the race being declared official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12011. Hours of Operation**

A. Account wagers shall be accepted during such times and on such days as designated by the licensee, subject to state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12013. Service Fees**

A. As part of its rules, the licensee may, with the approval of the commission and prior notice to the account holder, impose user or service fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12015. Account Wagering Center**

A. The licensee shall operate an account wagering center(s) for the purpose of keeping wagering accounts, recording wagers, maintaining records of credits and debits to the accounts, and otherwise administering the account wagering system. The location of such account wagering center(s) shall be subject to the approval of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12017. Licensee=s Employees and Agents**

A. The licensee shall appoint officers, employees or agents of the licensee to have management and control of the various aspects of the account wagering system for the licensee, including the account wagering center. As used herein, Alicensee@ includes the officers, directors and employees of the licensee, and persons, agents or other entities with the authority to accept deposits and wagers on behalf of the licensee and otherwise maintain and administer the system of account wagering. Such persons or entities may also provide services linking transactions from an account holder to a totalizator company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12019. Wagering Accounts**

A. Only those persons who have a wagering account with an account wagering center shall be permitted to wager through account wagering. An account may be established at an account wagering center, at a racetrack or off-track wagering facility within the state, by mail, or by other means approved by the commission.

B. The licensee shall accept accounts in the name of a natural person only. The licensee shall not accept any corporate, partnership, limited liability company, joint, trust, estate, beneficiary or custodial account. The account is nontransferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12021. Account Holder=s Responsibilities**

A. Wagering accounts are for the personal use of the account holder. Account holders are responsible for all bets placed through their accounts by any person using the account. The account holder bears full responsibility for maintaining the secrecy of his/her account number and confidential identification code.

B. Except as otherwise set forth herein, no person shall in any manner place any account wager on behalf of an account holder, or otherwise directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for an account holder. The licensee is not prohibited from conducting account wagering through employees or agents. Nothing in §2021 is intended to prohibit the use of credit or debit cards or other means of electronic funds transfer, or the use of checks, money orders or negotiable orders of withdrawal.

C. Neither the licensee nor any officer, director, employee or agent of the licensee shall be responsible for any loss arising from the use of or access to a wagering account by any person or persons other than the account holder, except where the licensee or its employees or agents act without good faith or fail to exercise ordinary care. The account holder must immediately notify the account wagering center of a breach of the account=s security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12023. Minors Prohibited**

A. No person below the age of 18 shall be permitted to open an account or place a wager, directly or indirectly, through account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

**§12025. Others Prohibited**

A. No officer, director or employee of any firm, entity or agency which is retained by the licensee with responsibility for the operation or maintenance of the account wagering system or of the account wagering center shall be permitted to place a wager, directly or indirectly, through the licensee=s system of account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

### §12027. Opening Wagering Account

A. An applicant for a wagering account shall make application in writing on the appropriate form supplied by the licensee at an account wagering center, at a racetrack or off-track wagering facility within the state, by mail, or by other means approved by the commission. The applicant shall provide his/her full name, current address and telephone number, social security number, and such additional information as the licensee may require. It is the account holder=s responsibility to keep his/her mailing address current with the account wagering center. The application shall be signed by the applicant or otherwise authorized in a manner acceptable to the commission. Applicants must state in their application whether they are below the age of 18.

B. Each account shall have a unique identification account number (and such other methods of identification as the licensee may require). Such number may be changed at any time provided the licensee informs the account holder in writing of the change.

C. At the time of applying for an account, each applicant shall select a confidential identification code to be used as further identification when wagering. Both the licensee and the account holder have the right to change this code at any time without explanation by informing the other party in writing of such change and the effective date thereof.

D. An account holder shall receive at the time the account is opened a unique identification account number; an identification card; a summary of the rules; an explanation of the procedures then in force for depositing to, withdrawing from and closing the account; a telephone number to be utilized by the account holder; a description of the mechanics of wagering; and such other information as the licensee or commission may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

### §12029. Deposits and Withdrawals

A. Deposits to and withdrawals from existing accounts shall be permitted in such form and by such procedures as the licensee may require, provided that any requirements set forth in these rules shall be included therein.

B. Deposits made to a wagering account may be made as follows.

1. Deposits made to a wagering account by the account holder shall be submitted or mailed by the account holder to the staff or agents of the licensee at such locations and addresses as the licensee may designate from time to time, and shall be in the form of one of the following:

a. cash given to the staff at an account wagering center, or a racetrack or off-track wagering facility within the state; or

b. check, money order or negotiable order of withdrawal; or

c. charges made to an account holder=s credit or debit card or other means of electronic funds transfer, upon the direct and personal instruction of the account holder, which may be given by telephone or other electronic device (or other means approved by the commission) to the licensee by the account holder if the use of the card or other means of funds transfer has been approved by the account wagering center.

2. Credit for winnings from wagers placed with funds in a wagering account, credit for account wagers on horses that are scratched, and other payments or refunds to which the account holder is entitled shall be posted to the account by the account wagering center.

3. The account wagering system shall not accept wagers or information assisting in the placement of wagers in excess of the amount posted to the credit of an account at the time the wager is placed.

C. Debits to a wagering account may be made as follows.

1. Upon receipt by a licensee of a wager or information assisting in the placement of wagers properly placed under applicable statutes and the *Rules of Racing*, the licensee shall debit the account holder=s account in the amount of the wager.

2. A licensee may authorize a withdrawal from a wagering account when one of the following exists:

a. The holder of a wagering account applies in person at an account wagering center, or a racetrack or off-track wagering facility within the state, and provides proper identification, the correct personal identification account number, and a properly completed and signed withdrawal form.

b. The account holder has authorized the licensee to make such a withdrawal. Where there are sufficient funds in the account to cover the withdrawal, the account wagering center shall, within five business days of receipt, send a check to the account holder at the current address on record for the wagering account. The check shall be payable to the holder of the account and in the amount of the requested withdrawal, subject to compliance with the *Rules of Racing*, the licensee=s rules, and federal and state laws (including but not limited to compliance with federal rules concerning the reporting or withholding of federal income tax). If funds are not sufficient to cover the withdrawal, or the full amount requested is otherwise not being sent, the account holder will be notified in writing and those funds in the account, subject to compliance with the *Rules of Racing*, the licensee=s rules, and federal and state laws, will be withdrawn and sent to the account holder within five business days. Electronic transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the account wagering center.

3. A licensee may debit an account for fees for service or other transaction-related charges.

D. Checks offered for deposit shall not be posted to the credit of the account holder until the Ahold@ period established by the licensee has elapsed. Holding periods will be determined by the licensee and advised to the account holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

### §12031. Deceased Account Holder

A. In the event an account holder is deceased, funds accrued in the account shall be released to the decedent=s legal representative upon receipt of a copy of a court order or judgment of possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

### §12033. Licensee=s Rights and Responsibilities

A. Notwithstanding any other rules, the licensee, through its managing employee of the account wagering center, or other employee or agent designated by the licensee, shall have the following rights and responsibilities.

1. The licensee has the right to refuse the establishment or maintenance of accounts for what it deems good and sufficient reason.

2. The licensee has the right to refuse deposits to accounts for what it deems good and sufficient reason.

3. The licensee has the right at any time to refuse to accept all or part of any wager for what it deems good and sufficient reason.

4. The licensee has the right at any time to declare the account wagering system closed for receiving wagers on any pari-mutuel pool, race, group of races, or closed for all wagering.

5. The licensee has the right to suspend or close any account at any time. When an account is closed, the licensee shall, within five business days, return to the account holder such monies as are on deposit at the time of said action, subject to compliance with the *Rules of Racing*, the licensee=s rules, and federal and state laws, by sending a check to the account holder=s current address.

6. The licensee has the right to close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period established by the licensee. In either case, the licensee shall refund the remaining balance of the account, subject to compliance with the *Rules of Racing*, the licensee=s rules, and federal and state laws.

7. No employee or agent of the licensee employed or engaged at the account wagering center shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the account wagering center, except to the account holder or the commission, as required by these rules, and as otherwise required by federal or state law, or the *Rules of Racing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

### §12035. Account Operations and Procedures

A. Account wagers shall be accepted during such times and on such days as designated by the licensee, subject to state law.

B. The account holder shall provide the licensee with the correct personal identification account number previously assigned by the licensee to the holder of the wagering account, as well as the account holder=s confidential identification code.

C. Any account wagering system must provide for the account holder=s review and finalization of a wager or information assisting in the placement of a wager before it is accepted by the licensee. The wager shall not be changed after the account holder has reviewed and finalized the wager, and the conversation or wagering transaction has been concluded.

D. Payment on winning account wagers shall be posted as a credit to the account of the account holder as soon as practicable after the race is declared official.

E. No licensee may accept an account wager, or series of account wagers, in an amount in excess of funds on deposit in the account of the account holder placing the wager. Funds on deposit include amounts credited and in the account at the time the account wager or account wagers are placed. Account wagers will not be accepted which would exceed the available balance in the account.

F. When an account holder is entitled to a payout or refund, such monies will be credited to the respective accounts, thus increasing the credit balance. It is the responsibility of the account holder to verify proper credits and, if in doubt, notify the licensee within the agreed upon time frame for consideration. Unresolved disputes may be forwarded to the commission by the licensee or the account holder. No claim will be considered by the commission unless submitted in writing and accompanied by supporting information or evidence.

G Monies deposited with the licensee for account wagering shall not bear any interest to the account holder.

H. The licensee shall maintain equipment capable of recording all wagering conversations and transactions conducted through the account wagering system. The recording device must be used at all times when wagering communications are received.

I. For wagers made by voice telephone, the licensee shall make a voice recording of the entire transaction and shall not accept any such wager if the voice recording system is inoperable. The voice recording of the transaction shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system.

J. All wagering conversations, transactions or other wagering communications through the account wagering system, verbal or electronic, shall be recorded by means of the appropriate electronic media, and the tapes or other records of such communications kept by the account wagering center for a period of time which the commission may establish. These tapes and other records shall be made available to commissioners, employees and/or designees of the commission in accordance with the *Rules of Racing*.

K. The address provided in writing by the account holder to the account wagering center is deemed to be the proper address for the purposes of mailing checks, account statements, account withdrawals, notices, or any other appropriate correspondence. It is the account holder=s responsibility to maintain a current address of record with the account wagering center. The mailing of checks or other correspondence to the address given by the account holder shall be at the sole risk of the account holder.

L. The account wagering center shall, from time to time, but not less than once per year, provide written statements of account activity during the period to all account holders. In addition, an account holder has the right to request and be provided a statement at any time. Unless written notice to the contrary is received by the licensee within 30 days of the date that any such statement is rendered to an account holder, said statement shall be deemed accepted as correct in any and all particulars.

M. Subject to commission approval, the licensee may implement procedures for the use of wagering accounts for wagering while at facilities in this state where pari-mutuel wagering is permitted and for wagering by any other electronic means.

N. The commission may review and audit the account wagering system=s equipment configuration and account wagering center. Any telephone communications system, whether touch tone, voice response, or operator controlled, and all other electronic media utilized for account wagers, shall be linked to a totalizator system in a manner approved by the commission. For the purposes of account wagering, totalizator equipment utilized by or linked to the licensee shall be capable of accounting for all wagering and other transactions which may affect customer accounts. The licensee must maintain complete records of every deposit, withdrawal, wager, refund and winning payout for each account. These records shall be made available to the commission in accordance with the *Rules of Racing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 26:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Charles A. Gardiner III, executive director, or C. A. Rieger, assistant director, at (504) 483-4000 (Fax 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through November 10, 2000, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Account Wagering

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only costs associated with these rules are those costs directly associated with the publication of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The anticipated effect on revenue collections is positive, but cannot be measured until wagering reports have been reviewed upon implementation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The costs involved could possible be to racing associations where an account wagering center is created. The economic benefits could potentially be to the associations as a result of an additional method of betting made available ato the public, and possibly increased wagering.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no significant effect on competition nor employment.

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| Charles A. Gardiner III | Robert E. Hosse |
| Executive Director | General Government Section Director |
| 0010#004 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741CLouisiana Handbook For School AdministratorsCGuidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21 (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). This action is required because of the revision of the transfer policy which now requires that students in grades 5 and 9 transferring to the public school system from any in-state nonpublic school or any home schooling program or any Louisiana resident transferring from any out-of-state school shall be required to take the 4th and 8th grade LEAP 21 English Language Arts and Mathematics tests and score at the Approaching Basic or above achievement level. Guidelines are needed to clarify the policy.

**Title 28**
**EDUCATION**
**Part I. Board of Elementary and Secondary Education**
**Chapter 9. Bulletins, Regulations, and State Plans**
**Subchapter A. Bulletins and Regulations**
**' 901. School Approval Standards and Regulations**

A. Bulletin 741

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 26:1260 (June 2000), LR 27:

**Bulletin 741CLouisiana Handbook for School Administrators**

**Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21**

Students in grades 5 and 9 transferring to the public school system from any in-state nonpublic school or any home schooling program, or any Louisiana resident transferring from any out-of-state school shall be required to take the 4th or 8th grade LEAP 21 English Language Arts and Mathematics Tests and score at the *Approaching Basic* or above achievement level. The following Guidelines shall apply.

1. Students may take LEAP 21 at either the spring or summer administration prior to enrollment. It is the responsibility of the parent to contact the District Test Coordinator to register for the test.

2. The nonpublic school and parent (or home schooling parent) is responsible for providing the District Test Coordinator, at least 10 working days prior to the testing date, any documentation required for requested standard testing accommodations.

3. Students with disabilities who have a current 1508 evaluation will participate in on-level LEAP 21 testing. Promotion decisions for these students will adhere to those

policies as outlined in the High-Stakes Testing Policy for students with disabilities participating in on-level testing.

4. School systems may charge a fee for the testing of nonpublic and home schooling students. This testing fee shall be refunded upon the student's enrollment in that public school system the semester immediately following the testing.

5. Students who participate in the spring administration and score at the *Unsatisfactory* achievement level are eligible to retake the LEAP 21 at the summer administration.

6. Local school systems shall offer LEAP 21 summer remediation to nonpublic/home schooling 4th and 8th grade students who score at the *Unsatisfactory LEAP 21* achievement level. School systems may charge a fee, not to exceed $100 per student for this attendance. This summer remediation fee shall be refunded upon the student's enrollment in that public school system the semester immediately following summer remediation.

7. Students who score at the *Unsatisfactory* achievement level are not required to attend summer school offered by the local school system to be eligible to take the Summer retest (Refer to the High-Stakes Testing Policy for exceptions.)

8. Only those students who score at the *Unsatisfactory* achievement level after participation in both the Spring and Summer administration of the LEAP 21 and who attend the summer school offered by the local school system are eligible for the appeals process or the policy override, provided all criteria are met. (Refer to the High-Stakes Testing Policy.)

9. Students who participate in the spring administration only *or* summer administration only and score at the *Unsatisfactory* achievement level are not eligible for the appeals process or the policy override. These students are not eligible to take The Iowa Tests for placement purposes.

10. Students transferring into local school systems after the LEAP 21 Summer retest but prior to February 15th are required to take the state selected form of The Iowa Tests for grade placement, if the student has not taken LEAP 21.

11. Students taking the Iowa tests are not eligible for either a retest or the appeals process. These students may be eligible for the policy override based upon a decision by the School Building Level Committee (SBLC).

Interested persons may submit written comments until 4:30 p.m., December 11, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 741CLouisiana Handbook For School Administrators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an increase in state expenditures of approximately $60,000. The cost will be based upon the number of nonpublic and homestudy students requesting to take the LEAP 21 as a requirement for entrance into grades five and nine. It is estimated that approximately 3,000 students, 1,000 grade four and 2,000 grade eight, may take the tests. The tests are $10 each. Each student takes two parts of the test, therefore, it will be approximately $20 per student. There will also be an increase in local expenditures based upon the number of students taking the placement tests as well as attending the summer remediation program. This cost will provide for additional teachers to administer the test and/or provide summer remediation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase on revenue collections of local governmental units. Local school systems are allowed to charge a fee for test administration (a maximum of $35) as well as attendance in the LEAP 21 summer remediation programs (a maximum of $100 per student). The amount of revenue collection is not able to be determined at this time because the charges may vary from school system to school system.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Cost will be incurred by parents of students and remediated during summer programs, to the extent of fees charged. The cost will vary depending upon the cost charged in the various school districts. There will also be benefits to schools and students in the form of better accountability and increased student achievement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be an impact on employment opportunities. Additional teachers may be needed to administer the test and provide summer remediation.

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|---|---|
| Marlyn Langley | H. Gordon Monk |
| Deputy Superintendent | Staff Director |
| Management and Finance | Legislative Fiscal Office |

0010#068

## NOTICE OF INTENT

### Department of Education
### Board of Elementary and Secondary Education

Bulletin 1213CMinimum Standards for School Buses in LouisianaCUsed School Buses (LAC 28:XXV.303)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1213 promulgated in LR 2:187 (June l976), referenced in LAC 28:I.915.B, readopted in codified format, LR 25:643-653 (April 1999). The amendment clarifies the present policy governing the purchase of used school buses.

**Title 28**
**EDUCATION**
**Part XXV. Bulletin 1213CMinimum Standards for School Buses in Louisiana**
**Chapter 3. General Provisions**
**§303. Used School Buses**

A. Any used school bus purchased for use in Louisiana by or for a school system shall meet current legal requirements of the Louisiana Revised Statutes for motor vehicles and shall meet Louisiana specifications for school

buses that were in effect on the date the vehicle was manufactured. No vehicle with rated capacity of 10 or more passengers shall be classified as a school bus and thereby used to transport students to and from school and school-related activities unless said vehicle originally was manufactured and certified as a school bus and maintained the certification as a school bus all in accordance with federal and state requirements throughout the life of the vehicle.

B. - C. …

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

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

Interested persons may submit written comments until 4:30 p.m., December 9, 2000, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. Please Respond To The Following:

1. Will The Proposed Rule Effect The Stability Of The Family? No
2. Will The Proposed Rule Effect The Authority And Rights Of Parents Regarding The Education And Supervision Of Their Children? No
3. Will The Proposed Rule Effect The Functioning Of The Family? No
4. Will The Proposed Rule Effect Family Earnings And Family Budget? No
5. Will The Proposed Rule Effect The Behavior And Personal Responsibility Of Children? No
6. Is The Family Or A Local Government Able To Perform The Function As Contained In The Proposed Rule? Yes

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 1213CGeneral Provisions for Used School Buses**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

We do not anticipate any increase (decrease) in cost to implement the proposed action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We do not anticipate this action will result in any increase or decrease in the collection of revenues by state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Drives/owners of school buses will be affected by this action. School buses used in pupil transportation that meet National Highway Safety Administration and state standards are more expensive to purchase than a bus that does not meet those standards. A used ten year old, sixty-five passenger school bus that meets the standards cost approximately $14,000 to $15,000. A similar bus that was not manufactured to meet the school bus standards will sell at an auction for approximately $2,000 to $3,000. It is then painted the school bus colors and stop arms are installed. A new, sixty-five passenger will cost approximately $50,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will improve competition among dealers selling new and used school buses that meet all safety standards to the school districts and to the driver/owner. There will be no impact on employment in the public and private sector.

Weegie Peabody
Executive Director
0010#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1566CGuidelines for Pupil Progression
(LAC 28:I.907.A)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, Guidelines for Pupil Progression, referenced in LAC 28:I.907.A. The Guidelines for Pupil Progression incorporate the High Stakes Testing Policy that was approved by the Board of Elementary and Secondary Education in January, 1999 and revised in May, 2000 as well as other policies related to the promotion and retention of students. The revisions changed current policy by allowing 8th grade students the ability to earn a maximum of one Carnegie unit of credit toward graduation for remedial courses. Prior to this revision, these 8th grade students were required to take non-credit remedial courses in the areas in which they scored at the "unsatisfactory" achievement level on LEAP 21. The policy was also revised to include a retention limit at the 4th grade, a double jeopardy clause, information relative to the earning of Carnegie units by 8th grade students on an elementary campus, implementation of instructional options for students retained, override guidelines, and a classification of Option 1 and 2 for 8th grade students.

## Title 28
## EDUCATION
## Part XXXIX. Bulletin 1566CGuidelines for Pupil Progression

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

### §305. Public Notice

A. ...

B. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan has been adopted and approved, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

C. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:

### Chapter 5. Placement Policies; State Requirements

### §503. Regular Placement[1]

A. PromotionCGrades K-12

1. Promotion from one grade to another for regular education and students with disabilities shall be based on the following statewide evaluative criteria.

a. - b.i. …

ii.(a). No fourth or eighth grade student shall be promoted if he or she scores at the AUnsatisfactory@ level on the English language arts or mathematics components of the LEAP for the 21st century (LEAP 21). Exceptions to this policy include:

(i). Policy Override. A given student scores at the "unsatisfactory" level in English language arts or mathematics and scores at the "proficient" or '"advanced" level in the other; and participates in the summer school and retest offered by the LEA. The decision to override is made in accordance with the local Pupil Progression Plan, which may include referral to the School Building Level Committee (SBLC).

(ii). Retention Limit. The decision to retain a student in the 4th grade more than once as a result of failure to score at or above the *Approaching Basis* achievement level in English Language Arts and/or Mathematics on the LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan. Students retained in the 4th grade shall retake all four components of the LEAP 21. For promotional purposes, a student must score at or above the *Approaching Basic* achievement level on the English language arts and mathematics components of the LEAP 21 only one time.

(iii). Waiver for students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA). For the 1999-2000 school year only if a student with disabilities (excluding students with only a Speech or Language Impairment) participates in on-level testing, the local school system may consider a waiver only if the student has participated in the summer remediation program and retest offered by the LEA=s. If a student with disabilities (excluding students with only a Speech or Language Impairment) participates in out-of-level testing, promotion decisions shall be determined by the local Pupil Progression Plan. If a student with disabilities participates in an alternative assessment, promotion decisions shall be determined by the local Pupil Progression Plan for the 2000 school year and beyond. Students with disabilities will be promoted in grades four and eight in accordance with SBESE adopted policies.

(iv). Appeals Process. A school system, through its superintendent, may grant an appeal on behalf of individual 4th and 8th grade students who have not scored above the "unsatisfactory" level on the English Language Arts and/or Mathematics after retesting provided that certain criteria are met.

iii. School systems shall design and implement additional instructional program options for these 4th and 8th grade students being retained

(a). The purpose of the additional instructional options is to move the students to grade level proficiency by providing focused instruction in the area(s) on which they scored "unsatisfactory" and by providing ongoing instruction using locally developed curricula based on state level content standards.

(b). Examples of instructional options may include alternative learning settings, individual tutoring, transitional classes or other instructional options appropriate to the student=s needs.

(c). LEAs are encouraged to design and implement additional options for students in grades 3, 4, 7 and 8 determined to be at risk of scoring at the "unsatisfactory" level on LEAP 21.

iv. Summer remediation programs and end-of-summer retests must be offered by school systems at no costs to all students who score at the "unsatisfactory" level on LEAP 21.

(a). All students with disabilities who participate in on-level testing should receive services along with regular education students in summer programs, with special supports provided as needed.

(b). Students with disabilities who participate in out-of-level testing and alternate assessment are not eligible to attend LEAP 21 summer remediation programs.

v. School systems must develop and implement non-discriminatory criteria to determine placement of 8th grade students who have not scored "approaching basic" or above on the LEAP 21 into Options 1 or 2.

(a). Option 1 Students. Students in Option 1 will repeat grade 8. Students in Option 1 will retake all four components of the LEAP 21. For promotional purposes, a student must score at or above the *Approaching Basic* achievement level on the English arts and mathematics components of the LEAP 21 only one time. In accordance with the local Pupil Progression Plan, Option 1 students:

(i). may earn Carnegie units in accordance with *Bulletin 741CLouisiana Handbook for School Administrators policy*, regarding high school credit for elementary students;

(ii). may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. LEAP 21 shall be in lieu of a required credit examination. For these

specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student=s transcript;

(iii). shall not enroll in or earn Carnegie credit in content areas (English language arts and/or mathematics) in which the student has scored at the *Unsatisfactory* achievement level on the Grade 8 LEAP 21.

b. Option 2 Students. Students in Option 2 will participate in a transitional program on the high school campus. Students in Option 2 will retake the 8th grade components of the LEAP 21 previously failed (English and/or Mathematics) and all parts of the Iowa Tests at the 9th grade level. All Option 2 Students:

(i). shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an *Unsatisfactory* achievement level was attained.

(ii). may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the students transcript.

(iii). shall not enroll in or earn Carnegie credit in content areas (English language arts and/or mathematics) in which the student has scored at the *Unsatisfactory* achievement level on the Grade 8 LEAP 21.

(iv). may earn Carnegie credit in other content areas.

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

vii. The aforementioned policies will be in effect from spring 2000 through spring 2003. Beginning in spring 2004, the policies will also apply to students scoring at the "approaching basic" level.

A.1.b.viii. - D.1. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:

### §505. ProgressionCStudents Participating in Alternate Assessment

A. Students with disabilities who participate in the alternate assessment shall have promotion decisions determined by the local Pupil Progression Plan.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

### §507. Alternatives to Regular Placement

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

### §509. Alternative Schools/Programs/Settings

A. The local school board may establish alternative schools/programs/settings which shall respond to particular educational need(s) of its students.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

### §513. Policies on Records and Reports

A. - B.7. ...

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

### §515. Policies on Due Process

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 27:

### §911. Criteria for State Approval

A. Student Eligibility

1. Any public elementary or secondary student, including a student with a disability participating in LEAP 21, who does not meet the performance standards established by the Department and approved by the State Board, as measured by the state criterion-referenced tests, shall be provided remedial education (R.S. 17:397).

2. The failure of students with disabilities to achieve performance standards on the state criterion-referenced tests does not qualify such students for special education extended school year programs (SBESE Policy).

B. - D.4. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1775 (November 1999), amended LR 27:

### §913. Local Program Development and Evaluation

A. Each parish and city school board shall develop annually a remedial education program as part of its Pupil Progression Plan, which complies with the established regulations adopted by the Department and approved by the SBESE pursuant to R.S. 17.24.4.

B. - K. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999), amended LR 27:

## Chapter 11. Appendix A

### §1101. Definition Of Terms

A. - A.1. …

* * *

*Alternate Assessment*Cthe substitute way of gathering information on the performance and progress of students with disabilities who do not participate in typical state assessments.

* * *

*Content Standards*—statements of what we expect students to know and be able to do in various content areas.

* * *

*LEAP 21 Summer Remediation Program*—the summer school program offered by the LEA for the specific purpose of preparing students to pass the LEAP 21 test in English language arts, or mathematics.

* * *

*Louisiana Educational Assessment Program (LEAP)*—the state's testing program that includes the grades 3, 5, 6, 7 and 9 Louisiana Norm-referenced Testing Program; the grades 4 and 8 Criterion-referenced Testing Program including English language arts, mathematics, social studies and science and the Graduation Exit Examination (English language arts, mathematics, written composition, science and social studies).

* * *

*Promotion*—a pupil's placement from a lower to a higher grade based on local and state criteria contained in these Guidelines.

* * *

*Pupil Progression Plan*—"The comprehensive plan developed and adopted by each parish or city school board which shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain test as determined by SBESE before he or she can be recommended for promotion."

* * *

*Regular Placement*—the assignment of students to classes, grades, or programs based on a set of criteria established in the Pupil Progression Plan. Placement includes promotion, retention, remediation, and acceleration.

* * *

*Remedial Programs*—programs designed to assist students including students with disabilities and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Education Assessment Program and other local criteria.

* * *

Remediation—see *Remedial Programs*.

* * *

*Retention*—nonpromotion of a pupil from a lower to a higher grade.

2. - 2.a. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999), amended LR 27:

Interested persons may submit written comments until 4:30 p.m., December 11, 2000 to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 1566—Guidelines for Pupil Progression**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no increase in cost to state or local governmental units to implement this policy change. School systems will use existing personnel to teach any remedial courses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Benefits to schools and students include better accountability and increased student achievement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment. Teachers currently employed will teach any new remedial courses.

Marlyn Langley
Deputy Superintendent
0010#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
(LAC 28:XLIII.904)

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 a revision to Bulletin 1706, *the Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 1941 et seq). This amendment changes the eligibility criteria for students with disabilities to qualify for a Certificate of Achievement.

**Title 28**
**EDUCATION**
**Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act**
**Subpart A. Regulations for Students with Disabilities**
**Chapter 9. Definitions**
**§904. Definitions**

*Certificate of Achievement-Interim Eligibility Criteria for a Certificate of Achievement for Students with Disabilities*

*(excluding students with only a speech or language impairment) for the 2000-2001 School Year Only*Crefers to an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below.

1. Eligible students are those

a. who have disabilities under the criteria in the *Pupil Appraisal Handbook*;

b. who have been receiving special education services since the 1997-98 school year as documented in the IEP;

c. who are currently enrolled in grade 12 during the 2000-2001 school year; and

d. who their IEP team determined did not meet the LEAP Alternate Assessment Participation Criteria.

2. Eligible students shall meet the Interim Eligibility Criteria listed below to be awarded a Certificate of Achievement. The receipt of a Certificate of Achievement shall not limit a student=s continuous eligibility for services under these Regulations unless the student has reached the age of twenty-two.

2.a. - f. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:679 (April 2000); LR 27:

Interested persons may submit written comments until 4:30 p.m., December 11, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Bulletin 1706CRegulations for Implementationof the Children with Exceptionalities Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units resulting from these proposed rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated impact on revenue collections of state or local governmental units as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this rule may provide economic benefits to students with disabilities by allowing more students with disabilities to qualify for an exit document. The proposed rule change clarifies how a student with a disability would qualify for the Certificate of Achievement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be an estimated effect of competition and employment in the public or private sector by having more students with disabilities completing their high school program. The assumption is that if more students complete their high school program they will have more job skills to offer a potential employer. The estimated potential impact is unknown.

Marlyn Langley
Deputy Superintendent
0010#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

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

Commission BylawsCCommittees (LAC 28:V.109)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with §952 of the Administrative Procedure Act, hereby announces its intention to revise its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28**
**EDUCATION**
**Part V. Student Financial AssistanceCHigher Education Loan Program**
**Chapter 1. Student Financial Assistance Commission Bylaws**
**§109. Committees**

A.1. - 2. ...

3. Personnel Committee;
4. Internal Audit Committee;
5. Planning Committee; and
6. Rules Committee.

B. - C.1. ...

2. The vice chairman of the commission shall be chairman of the rules committee.

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

D. - E. ...

F. Executive Committee

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

F.2. - G. ...

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

I. ...

J. Planning Committee. The Planning Committee shall consist of not less than six members of the commission. Normally, to this committee shall be referred the Strategic Plans and related matters.

K. Rules Committee. The Rules Committee shall consist of not less than seven members of the commission. Normally, to this committee shall be referred all matters related to making and interpreting rules.

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1264 (July 1998), LR 26:484 (March 2000), LR 27:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 2000, to Jack L. Guinn, Executive Director, Office of Student Finance Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Commission Bylaws C Committes**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No cost is anticipated to implement the proposed rule change. The rule provides for the designation of the Ad Hoc Rules Committee as a standing committee, establishes a Planning Committee and provides for its duties, and increases the membership of the Executive Committee to seven members.

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)

No impact on non-governmental groups is anticipated to result from this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

| | |
|---|---|
| Mark S. Riley | H. Gordon Monk |
| Assistant Executive Director | Staff Director |
| 0010#048 | Legislative Fiscal Office |

**NOTICE OF INTENT**

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

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

The Louisiana Tuition Trust Authority (LATTA) announces its intention to amend rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2). The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 2000, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program**

I. ESTIMATED IMPLEMENTATION COSTS (SA VINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of these changes should result in an increase in START accounts and deposits in which case there will be an increase in the amount of Tuition Assistance Grants required. Increases should not exceed current budgetary appropriations for this purpose. The additional tuition assistance grant total for 2000-01 is $23,823; for 2001-02, $70,782; for 2002-03, $78,382; for 2003-04, $86,224; and for 2004-05, $92,440. According to information costs for system development and modification of $28,060 are anticipated for 2000-2001.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections to the Office of the Student Financial Assistance is anticipated to result from the revision. The Department of Revenue and taxation estimates a reduction in state in come tax collections of $113,344 in 2001-02, $118,792 in 2002-03, $119,682 in 2003-04, and $128, 156 in 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These changes will make the program more attractive to those who wish to save for college expenses and simplify refund payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0010#046

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)CHigher Education Scholarship and Grant Programs (LAC 28:IV.301, 509, 703, 803, 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS)(R.S. 17:3042.1 and R.S. 17:3048.1).

The full text of these proposed rules may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

The proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
### RULE TITLE: Tuition Opportunity Program for Students (TOPS)CHigher Education Scholarship and Grant Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No additional cost is anticipated to implement revisions to the TOPS program to clarify the requirement to attend an eligible school, make technical changes to the core curriculum for TOPS-TECH, define terms and establish procedure to submit SAT results.

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)

Definitions for legal guardian and orphan are provided. Applicants who use SAT scores will be provided procedures to submit those results. Effective with May 2001 high school graduates TOPS applicants cannot claim a financial or scholarship commitment to an out-of-state college as an exception to the requirement to enroll full-time for the first time in a Louisiana college.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0010#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

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

Filling of Gasoline Storage Vessels CExemption (LAC 33:III.2131)

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.2131 (Log #AQ209).

The proposed rule will correct an omission in LAC 33:III.2131.D.3 to add St. Mary Parish to the list of parishes exempted from compliance with the requirements of LAC 33:III.2131.A for certain facilities. St. Mary Parish was inadvertently omitted in the original rulemaking. The basis and rationale for this proposed rule are to add St. Mary Parish to LAC 33:III.2131.D.3, where it was omitted in error from the list of parishes exempted from the requirements in LAC 33:III.2131.A.

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

### Title 33
### ENVIRONMENTAL QUALITY
### Part III. Air
### Chapter 21. Control of Emission of Organic Compounds
### Subchapter F. Gasoline Handling
### §2131. Filling of Gasoline Storage Vessels

* * *

[See Prior Text in A - D.2]

3. Any gasoline outlet in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge whose throughput is less than 120,000 gallons (454,200 liters) per year or any gasoline outlet in the parishes of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James, St. John the Baptist, and St. Mary whose throughput is less than 500,000 gallons (1,892,700 liters) per year. Once the rolling 30-day average throughput exceeds 10,000 gallons for a facility in the parishes of Ascension, Calcasieu, East Baton Rouge,

Iberville, Livingston, Pointe Coupee and West Baton Rouge or 42,000 gallons for a facility in the parishes of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James, St. John the Baptist, and St. Mary that facility becomes an affected facility and does not revert to an exempted facility when the throughput drops back below the throughput exemption level.

* * *

[See Prior Text in D.4 - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:609 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1123 (October 1992), LR 19:1564 (December 1993), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning, LR 26:

A public hearing will be held on November 27, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 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 AQ209. Such comments must be received no later than December 4, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. 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 AQ209.

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: Filling of Gasoline Storage Vessels—Exemption**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units for this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to persons or non-governmental groups as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal will have no effect on competition or employment.

| James H. Brent, Ph.D. | Robert E. Hosse |
|---|---|
| Assistant Secretary | General Government Section Director |
| 0010#099 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Office of the Governor
### Commission on Law Enforcement and Administration of Criminal Justice

Crime Victim Assistance (LAC 22:III.4901)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 15:1201 and R.S. 15:1207, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice that rulemaking procedures have been initiated to amend the rule regarding the administration of the Crime Victim Assistance Fund. There is no expected impact on family earnings and family budget as set forth in R.S. 49:972.

**Title 22**
**CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**
**Part III. Commission on Law Enforcement and Administration of Criminal Justice**
**Subpart 5. Crime Victim Assistance**
**Chapter 49. Policies and Procedures**
**§4901. Introduction**

A. The issues of services to victims of crime, underserved victims and an increased awareness of the prevalence and severity of domestic violence and violence against women coupled with the increased availability of federal funds to address these issues at the state, regional and local levels, have led to federal grant programs designed to focus on these topics. The Louisiana Commission on Law Enforcement has been named as the cognizant state agency for the federal programs and will make available to appropriate non-profit and public agencies grant funds, to be spent in accordance with federal program guidelines and the guidelines of the Victim Services Advisory Board and the Louisiana Commission on Law Enforcement.

B. The Victims of Crime Act of 1984 (VOCA) established within the U. S. Treasury an account funded by federal fines, penalties and forfeited bail bonds to be used for the purpose of funding victim assistance grants to the states. These grants are to be used for programs that provide direct services to victims of crime, with priority given to programs that have as their principal mission direct assistance to victims of sexual assault, spouse abuse, child abuse and previously underserved victims of crime. VOCA funds in the

state are administered by the Louisiana Commission on Law Enforcement in consultation with the Victim Services Advisory Board to the Commission. The VOCA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

C. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

D. The Violence Against Women Act (VAWA) of 1994 is enabling legislation that has as its intent the reduction of violence to encourage states and localities to restructure and strengthen their criminal justice response to this issue and to be proactive in dealing with the problem of domestic violence. The STOP (Services-Training-Officers-Prosecution) Program is the implementation aspect of VAWA and seeks to develop and strengthen effective law enforcement and prosecution strategies to combat violent crime against women and to develop and strengthen victim services in cases involving violent crimes against women. Unlike VOCA, monies are appropriated by Congress for this program. These funds are divided equally between law enforcement, prosecution and non-profit service providers and are administered by the Louisiana Commission on Law Enforcement in consultation with Victim Services Advisory Board. The VAWA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

E. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1071 (December 1989), amended LR 27:

Interested persons may submit written comments on this proposed amendment no later that November 10, 2000, at 5 p.m., to Ron Schulingcamp, Victims Services Section, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Crime Victim Assistance**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This is an update of an existing rule; no costs or savings are expected. In addition, no increase in calls or workload that would increase costs to the agency are expected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on estimated costs or economic benefits to individuals or nongovernmental groups is expected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is anticipated.

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|---|---|
| Michael A. Ranatza | Robert E. Hosse |
| Executive Director | General Government Section Director |
| 0010#054 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Office of the Governor
### Office of Elderly Affairs

GOEA Policy Manual RevisionCProperty Control
(LAC 4:VII.1199)

In accordance with R.S. 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, 2001. The purpose of the rule change is to require service providers funded through the GOEA to follow the state guidelines governing tangible personal property. This rule change will have no known impact on family formation, stability, and autonomy as set forth in R.S. 39:321.

**Title 4**
**ADMINISTRATION**
**Part VII. Governor's Office**
**Chapter 11. Elderly Affairs**
**Subchapter D. Service Provider Responsibilities**
**§1199. Property Control and Disposition**

A. - A.1. …

B. Definitions

*Equipment*Ctangible personal property with an acquisition cost equal to or greater than $1,000 and a useful life of more than one year. All such property must be tagged.

* * *

C. - F.2.b. …

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7), 45 CFR Subtitle A, Part 92.31 and 92.32 and 45 CFR Part 74 Subpart O.

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 18:610 (June 1992), LR 25:867 (May 1999), LR 27:

A public hearing on this proposed rule will be held on November 30, 2000 at 412 North Fourth Street, First Floor Conference Room, 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 may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. Written comments will be accepted until 5 p.m. November 30, 2000.

P.F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: GOEA Policy Manual Revision—Property Control**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no costs or economic benefits to state or local governmental units associated with these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will affect service providers funded through the Office of Elderly Affairs. The rule changes will result in a reduction of time and expense on tagging and inventorying moveable property. Estimated savings are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment in the public and private sectors.

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| P.F. "Pete" Arceneaux, Jr. | Robert E. Hosse |
| Executive Director | General Government Section Director |
| 0008#055 | Legislative Fiscal Office |

## NOTICE OF INTENT

**Office of the Governor**
**Commission on Law Enforcement and Administration of Criminal Justice**

Peace Officers—Standards and Training
(LAC 22:III.4703)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

**Title 22**
**CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**
**Part III. Commission on Law Enforcement and Administration of Criminal Justice**
**Subpart 4. Peace Officers**
**Chapter 47. Standards and Training**
**§4703. Basic Certification**

A. - C. …

D. To maintain firearm certification, an officer shall be required to requalify yearly on the POST firearms qualification course, demonstrating at least 80 percent proficiency. Scores shall be computed and verified by a POST certified Firearms Instructor. If the period between qualifying exceeds 18 months for any reason, the officer will be required to successfully complete a Firearms Course prescribed by the POST Council conducted by a POST certified Firearms Instructor, unless the officer had been in the military for more than three years and was exercising his veteran reemployment rights.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), amended LR 26:

Interested persons may submit written comments on this proposed rule no later than December 1, 2000 at 5 p.m. to Aubrey Futrell, POST Program Manager, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Peace Officers—Standards and Training**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cause no increase in expenditures. Sufficient funds are available in the POST budget to cover any possible expenditure.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of the proposed rule will cause no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed rule will cause no discernible cost or economic benefit to directly affected persons or non-governmental groups. Act 108, passed in 1998 Special legislative session, required annual reporting of re-qualifying of Louisiana's Peace Officers. During the monitoring of this program, POST discovered numerous agencies that were not in compliance with the annual re-qualifying rule. While the agencies were trying to come into compliance, they found that the POST rule requiring their officers to attend 40-hours of firearms training at an academy caused an undue hardship. Their officers were unable to get into an academy and the agency could not afford the manpower or the funds required to get their agency in compliance. They simply could not afford to send their officers to an academy for 40-hours of training and could not afford to shut down their agency for the time required for training. These agencies were trying to get into compliance and in order to assist those agencies, the POST Council voted to allow an 8-hour comprehensive course instead of the 40-hour course. The officers would still be tested and the same practical test would be required as in the 40-hour course. Also to ease the problem with crowding at the academies, the POST Council voted to allow any POST-certified Firearms Instructor to conduct the training rather than requiring the officer to take the training at a POST-certified Training Academy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Michael A Ranatza — Executive Director — 0010#045

H. Gordon Monk — Staff Director — Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals
### Board of Nursing

Denial or Delay of Licensure, Reinstatement, or the Right to Practice as a Student Nurse (LAC 46:XLVII.3331)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to Denial or Delay of Licensure, Reinstatement, or the Right to Practice as a Student Nurse. The proposed amendments of the rules are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**Chapter 33. General**

**§3331 Denial or Delay of Licensure, Reinstatement, or the Right to Practice Nursing as a Student Nurse**

A. Denial of Licensure, Reinstatement, or the Right to Practice Nursing as a Student Nurse

1. Applicants for licensure, reinstatement, or the right to practice as a student nurse shall be denied approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course, if the applicant has pled guilty, nolo contendere, "best interest of", been convicted of, or committed a:

a. "crime of violence" as defined in R.S. 14:2(13), or any of the following crimes: first degree feticide, second degree feticide, aggravated assault with a firearm, stalking, false imprisonment-offender armed with a dangerous weapon, incest, aggravated incest, molestation of a juvenile, sexual battery of the infirm; or

b. crime which involves distribution of drugs.

2. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

3. Applicants who are denied licensure, reinstatement, or the right to practice nursing as a student nurse shall not be eligible to submit a new application.

4. Exception. The Board may make an exception to the said rules when the following conditions are met:

a. the applicant presents evidence that the cause for the denial will not affect safe nursing practice. The evidence may include but not be limited to completion of all court ordered probation and/or parole, comprehensive evaluations, employer references, rehabilitation, and restitution. Prior to requesting a Board hearing, the evidence shall be presented to Board staff; and

b. a hearing or conference is held before the board to review the evidence, to afford the applicant the opportunity to prove that the cause for the denial does not affect safe nursing practice, and to provide an opportunity for the board to evaluate the evidence presented.

B. Delay of Licensure, Reinstatement, or the Right to Practice Nursing as a Student Nurse

1. Applicants for licensure, reinstatement, and for practice as a student nurse shall be delayed approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course, if the applicant:

a. has any pending disciplinary action or any restrictions of any form by any licensing/certifying board in any state; or

b. has a pending criminal charge that involves any violence or danger to another person, or involves a crime which constitutes a threat to patient care; or

c. has pled guilty, nolo contendere, "best interest of", been convicted of or committed a crime that reflects on the ability of the person to practice nursing safely, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole. If the crime is a "crime of violence" as defined in R.S. 14:2(13) or any of the following crimes: first degree feticide, second degree feticide, aggravated assault with a firearm, stalking, false imprisonment-offender armed with a dangerous weapon, incest, aggravated incest, molestation of a juvenile, sexual battery of the infirm, the applicant shall be denied.

2. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

3. Applicants who are delayed licensure, reinstatement, or the right to practice nursing as a student nurse shall not be eligible to submit a new application until the following conditions are met:

a. the applicant presents sufficient evidence that the cause for the delay no longer exists; and

b. a hearing or conference is held before the board to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay no longer exists, and to provide an opportunity for the board to evaluate changes in the person or conditions.

4. Exception. The Board may make an exception to the said rules when the following conditions are met:

a. the applicant presents evidence that the cause for the delay will not affect safe nursing practice. The evidence may include but not be limited to comprehensive evaluations, employer references, rehabilitation, and restitution; and

b. a hearing or conference is held before the board to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay will not affect safe nursing practice, and to provide an opportunity for the board to evaluate the evidence presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74, (March 1981), amended by the Department of Health and Hospitals, Board

of Nursing, LR 19:1145 (September 1993), LR 21:271 (March 1995), LR 24:1293 (July 1998), LR 27:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on November 8, 2000.

**Family Impact Statement**

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed rule related to the Board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Denial or Delay of Licensure, Reinstatement, or the Right to Practice as a Student Nurse**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The only implementation cost is the estimated $45.00 cost of publishing the rule in the *Louisiana Register*

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Applicants for licensure and/or nursing students enrolled in clinicial nursing courses with criminal history, which constitutes grounds for denial will be provided an opportunity to have a hearing before the board. Cost cannot be estimated because costs are dependent on the nature of the evidence the individuals presents and whether or not represented by legal counsel. Generally it is anticipated that all individuals will have the following initial cost: Cost of hearing $300.00-$600.00 and evaluations $400.00-$1,000.00.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment.

Barbara L. Morvant
Executive Director
0010#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

**Department of Health and Hospitals**
**Office of Management and Finance**

Conrad State 20 Program (LAC 48:V.Chapter 119)

The Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development proposes to implement the Louisiana Conrad State 20 Program on the basis of Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416). Participation in this program will assist some communities in improving access to essential health care by the placement of foreign medical graduates in locations with unmet health care needs at present. This notice of intent is in accordance with the Administrative Procedure Act, R.S. 49:953B(1)et seq.

Effective January 20,2001, the Department of Health and Hospitals, Office of Primary Care and Rural Health, will implement the Conrad State 20 Program which will make additional communities eligible to meet unmet health care needs with foreign medical graduates.

**Title 48**
**PUBLIC HEALTHC GENERAL**
**Part I. General Administration**
**Subpart 5. Health Planning**

**Chapter 119. Health Care Manpower**

**▪ 11915 Introduction**

The Louisiana State Department of Health and Hospitals (DHH) is committed to assuring that all Louisiana residents have access to quality, affordable health care. To assist residents in meeting this goal.

1. The Louisiana DHH has given the Office of Primary Care and Rural Health (OPCRH) the responsibility within the state of:

a. recommending and processing J-1 Visa Waiver requests for placement for the United States Information Agency=s Conrad State 20 Program;

b. recommending J-1 Visa Waiver requests for placement through the United States Department of Agriculture=s (USDA) Office of International Research Service J-1 Visa Waiver Office.

2. The primary purpose of the Louisiana J-1 Visa Waiver Program is to improve access to primary health care in physician shortage areas in Louisiana and secondarily, to limited needed specialty care, by sponsoring physicians holding J-1 Visas.

3. The State of Louisiana recognizes that the J-1 Visa Waiver Programs afford J-1 Visa holders the privilege of waiving their two-year return to the home country requirement in exchange for providing primary or specialty medical care as requested by an eligible employer/medical facility in designated health professional shortage areas for a period of at least three years.

4. The operation of the Louisiana J-1 Visa Waiver Program through the USDA and the Conrad State 20 Program is designed to be consistent with other health care programs and policies of the State of Louisiana. Policy guidelines will be the same for rural sites seeking support for a J-1 Waiver applicant through the USDA J-1 Visa Waiver Office as for all sites, rural or urban, seeking support though the Conrad State 20 program.

5. The Louisiana J-1 Visa Waiver Program through the Conrad State 20 Program is a separate and distinct program from any other program and is an additional program to the USDA J-1 Waiver Program now operating within the State of Louisiana.

6. The Louisiana State Department of Health and Hospital=s participation in the J-1 Visa Waiver Programs are completely discretionary, voluntary, and may be modified or terminated at any time. The submission of a complete waiver package to the LA DHH does not ensure an automatic waiver recommendation. In all instances, the Louisiana DHH reserves the right to recommend or deny any request for a waiver.

AUTHORITY NOTE: Promulgated in accordance with C.F.R. Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

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

**§11917. Definitions**

A. The following words and terms, when used in this Chapter shall have the following meanings, unless the context clearly indicates otherwise.

*Health Professional Shortage Area (HPSA)*Csection 332 of the Public Health Service Act provides that the Secretary of Health and Human Services shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 322 to include

a. urban and rural geographic areas;

b. population groups; and

c. facilities with shortages of primary health care and mental health providers.

*Metropolitan Statistical Area (MSA)*Cthe U.S. Office of Management and Budget (OMB) defines metropolitan statistical areas according to published standards that are applied to U.S. Census Bureau data. MSAs are defined in terms of entire counties and must contain a place with a minimum population of 50,000 and may include outlying counties that have a high degree of economic and social integration with the population center.

*Employer/Medical Facility*Ca medical facility eligible to recruit and hire J-1 Visa physicians through the Program must be a facility that meets one of the following criteria:

a. a public health facility, an ambulatory medical facility, a community health center, a community mental health center; and

b. a hospital or state mental hospital. The medical facility must be located, as of the date of its application, in a geographical area designated by the United States Department of Health and Human Services as HPSA for primary medical care or mental health, in the case of the recruitment of psychiatrists. The facility must have a written policy in place accepting all patients regardless of their ability to pay, a sliding fee schedule for patients below 200% of the poverty level, post a notice of sliding fee schedule in the waiting room and accept Medicare and Medicaid assignments. The facility may be asked to document the number of Medicaid patients, the number of uninsured patients, the number of uninsured patients that were eligible for reduced fees under application of the sliding fee scale and the total number of patients for a specific time period.

*J-1 Visa Waiver Physician*Ca foreign medical graduate (FMG) who came to the United States to complete a residency training program. The visa requires that the physician return to the home country for two years. The J-1 Visa Waiver eliminates this return home requirement and allows the physician to adjust visa status to H-1B (temporary work permit) and practice in a HPSA location for at least three years. It is important to note that the waiver of the two year return home requirement is not a visa and is only one step in a multi-part process.

AUTHORITY NOTE: Promulgated in accordance with C.F.R. Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

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

**§11919. Guidelines**

A. The health care facility/employer interested in hiring a J-1 Visa Waiver physician must submit the request in writing to the Office of Primary Care and Rural Health for a predetermination of eligibility/availability of a J-1 Waiver allocation prior to or during the recruitment of a physician. This site approval should be obtained before advertising/interviewing for the position.

B. After a decision to hire has been made, the facility/employer should submit to DHH a completed packet to request a recommendation for a waiver or letter of support for the applicant physician. The packet should contain the documents required by current policy. The current policy is available through the DHH Office of Primary Care and Rural Health at (225) 342-4702.

AUTHORITY NOTE: Promulgated in accordance with C.F.R. Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

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

**§11921. Criteria for DHH Decision**

A. DHH will review the site application and determine if a site/employer is eligible to hire a J-1 Visa Waiver physician using the following criteria:

1. priority will be given to individuals who agree to serve in HPSA=s with the highest degree of shortage and whose service will have the greatest impact on underserved populations;

2. priority will be given to individuals who will be practicing in facilities participating in the DHH Primary Care Enhancement Plan;

3. priority will be given to individuals who agree to serve for longer periods of time;

4. consideration will be given to the number of other J-1 Waiver physicians and Louisiana State Loan Repayment or National Health Service Corp health care practitioners already practicing in the HPSA in determining the eligibility of the site/employer for a J-1 Waiver physician under either the USDA and Conrad State 20 Programs;

5. priority will be given to foreign medical graduates who have completed their three year residency in a Louisiana residency program; and

6. DHH will review annually the needs for health care providers in the state to determine the distribution of the 20 available positions.

AUTHORITY NOTE: Promulgated in accordance with C.F.R. Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

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

A public hearing on the proposed rules will be held at 1:30 p.m., on November 28, 2000, at the Department of Transportation Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may submit written comments to Helene Robinson, Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, Post Office Box 2870, Baton Rouge, Louisiana 70821-2870.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Conrad State 20 Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs to the Department of Health and Hospitals for FY 2000-01 for the Conrad State 20 Program will be approximately $35,000 of the State General Funds. The initial costs will be approximately $20,000 for a legal services contract and equipment cost at $3,500. Other operational and management cost for FY 00-01 includes personnel services (GS 20) $5,457, $799 to the U.S. Department of State for implementation of the program, as well as printing, mailing, and copying costs of day-to-day operations of the program. FY 2001-02 costs will be $57,418 and FY 2002-03 costs will be $58,915.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections of any state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Conrad State 20 Program will allow underserved health professional communities to recruit 20 foreign medical graduates to provide primary health care services. The state of Louisiana will request USIA/INS to waive the two year return home criteria of J-1 Visa requirement. Currently, J-1 Visa Waiver physicians must apply for the waiver through the USDA which supports waiver requests only for physicians in designated rural areas. The Conrad State 20 Program will allow the placement of these J-1 Visa Waiver physicians in rural as well as metropolitan statistical areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Participation in the program will allow present unmet health needs to be met by foreign medical physicians. Placement is generally in areas where facilities have been unable to recruit health professionals to treat low income/underserved individuals.

David W. Hood
Secretary
0010#095

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

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

Lead Poisoning Prevention Program

Under the authority of R.S. 40:5 and R.S. 40: 1299.21., 22. and 23. and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health amends the definition for lead contamination as defined within the Lead Poisoning Program in Louisiana. The proposed Rule also proposes to codify regulations pertaining to the Louisiana Lead Poisoning Prevention Program as previously published in the Louisiana Register of January 20, 2000. The proposed Rule should improve the family formation, stability and autonomy by preventing and detecting lead poisoning which causes harmful long term effects to the child=s developing brain and nervous system.

**TITLE 48**
**Public Health General**
**Part V. Public Health Services**
**Subpart 19. Genetic Diseases Services**

**Chapter 70. Lead Poisoning Prevention Program**

**§7001. Relationship of Local and State Poisoning Prevention Programs**

The local lead prevention program shall collaborate with the state Lead Prevention Program at the Office of Public Health and adhere to current Centers for Disease Control and Prevention guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and under the authority of R.S. 40:5; 40:1299.21; 40:1299:22, and 40:1299:23.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:85 (January 2000); amended by the Department of Health and Hospitals, Office of Public Health, LR 27:

**§7003. Definitions**

*A Case of Lead Poisoning* (in children between the ages of six months to 72 months of age)C

a. a venous blood-lead level greater than or equal to 15 Fg/dl (micrograms per deciliter).

b. acute symptomatic illness consisting of lead colic with or without lead encephalopathy; or

c. chronic symptomatic illness consisting of the signs and symptomatic illness consisting of the signs and symptoms of chronic plumbism, including, but not limited to anemia, nephropathy, neuropathy, loss of developmental skills, recurrent lead colic and/or recurrent lead encephalopathy.

*Previously* R*eported*Cany case of lead poisoning which has been diagnosed by a medical provider, and reported to the Office of Public Health as specified in Section 7005.

*Lead Contamination*Cshall be considered a health hazard to children or other persons, if said lead contamination exists in or about a dwelling, dwelling unit, household, or other premises which in the judgement of the State Health Officer, children or other persons visit with such frequency or duration as to create significant risk of lead poisoning. Lead contamination shall include: paint or similar coating material, putty, plaster or other composition material, on an exposed surface or chewable surface, which contains $0.5% lead by weight as determined by laboratory analysis or $1.0 milligram per square centimeter of surface area as measured by X-ray fluorescence or equivalent method; drinking water, dust, or soil which contains a level of lead which, in the judgement of the State Health Officer, is sufficient to be a source of lead poisoning to children or other persons; any object or material which, in the judgement of the State Health Officer, can be a source of lead ingestion or inhalation

*Clinical Laboratory*Ca facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and under the authority of R.S. 40:5; 40:1299.21; 40:1299:22, and 40:1299:23.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:85 (January 2000); amended by the Department of Health and Hospitals, Office of Public Health, LR 27:

### §7005. Mandatory Case Reporting By Health Care Providers

1. Medical providers must report a lead case to the Lead Poisoning Prevention Program, Office of Public Health within 48 hours to ensure appropriate and timely follow-up. All health care providers shall assure that all the following information is completed for all blood lead analysis ordered by the health care provider and that this information accompanies the sample to the testing laboratory:

a. child=s name;

b. parent=s or the guardian=s name;

c. child=s street and mailing address, including the city, state, parish, and zip code;

d. child=s date of birth;

e. child=s sex;

f. child=s race;

g. child=s national origin;

h. child=s Social Security Number;

i. phone number where the child can be reached;

j. medicaid number, if any;

k. type of sample (Venous or Capillary);

l. sample date;

m. type of test: first, annual, or repeat test;

n. blood lead level results in micrograms per deciliter (Fg/dl).

2. Lead cases along with the specified information can be reported either by fax at (504)599-1376 or by telephone at (504) 599-0256, and followed up by the mailing of the information to the Louisiana Childhood Lead Poisoning Prevention program, Office of Public Health, Room 311, 325 Loyola Avenue, New Orleans, LA. 70112.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and under the authority of R.S. 40:5; 40:1299.21; 40:1299:22, and 40:1299:23.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:85 (January 20, 2000); amended by the Department of Health and Hospitals, Office of Public Health, LR 27:

### §7007. Reporting Requirements of Blood lead levels by Laboratories for Public Health Surveillance

1. Clinical laboratories responsible for conducting analysis to determine blood lead levels, and /or responsible for reporting the results of analysis to referring laboratories and other health care providers, shall also report the results to the Louisiana Office of Public Health at least monthly to the Lead Poisoning Prevention Program at the address listed in Subpart C above. The following information is essential for appropriate monitoring, screening and treatment of lead poisoning.

a. All results of blood lead testing for children between the ages of six to 72 months of age must be reported, regardless of the test results.

b. Laboratories shall collect and report all of the information specified in items a-n in Subpart C above. However, items b, c, f, g, h, i, and j must only be reported if the information is available to the laboratory.

c. Laboratories can report the information required by this rule to the Office of Public Health. by electronic transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and under the authority of R.S. 40:5; 40:1299.21; 40:1299:22, and 40:1299:23.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:85 (January 2000); amended by the Department of Health and Hospitals, Office of Public Health, LR 27:

A public hearing will be held November 27, 2000 at 9:30 a.m. in room 511 of the State Office Building in New Orleans located at 325 Loyola Avenue. Interested persons may submit written comments on the proposed rule amendment until November 20, 2000 to Maria Jose Lancaster, MPH, Program Coordinator, Louisiana Childhood Lead Poisoning Prevention Program, Office of Public Health/DHH, Room 308, P.O. Box 60630, New Orleans, LA 70160 or by Fax to 504-599-1376.

David W. Hood
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Lead Poisoning Prevention Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The agency will incur a one time cost of approximately $200.00 to publish this rule in the *Louisiana Register* prior to implementation. There are no additional implementation costs (savings) to state or local units from the proposed action which is comprised of a definition change and the codification of the proposed rule.

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 from the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups from the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from the proposed action.

Madeline McAndrew
Assistant Secretary
0010#092

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

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

Durable Medical Equipment (DME) Program
Customized Wheelchairs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and

pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses certain durable medical equipment items using a formula based on a percentage calculation of the Manufacturer's Suggested Retail Price (MSRP). As a result of a budgetary shortfall, the bureau determined it was necessary to reduce the reimbursement for manual type customized wheelchairs and their components from MSRP minus 15 percent to MSRP minus 20 percent and to reduce the reimbursement for motorized type customized wheelchairs from MSRP minus 12 percent to MSRP minus 17 percent (*Louisiana Register*, Volume 26, Number 2).

The bureau now proposes to adopt a Rule to continue the provisions contained in the February 8, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for manual type customized wheelchairs and their components from Manufacturer's Suggested Retail Price (MSRP) minus 15 percent to MSRP minus 20 percent and for motorized type customized wheelchairs from MSRP minus 12 percent to MSRP minus 17 percent.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Durable Medical Equipment (DME) Customized Wheelchairs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($37,153) for SFY 1999-00, ($179,818) for SFY 2000-01, and ($185,274) for SFY 2001-02. It is anticipated that $120 ($60 SGF and $60 FED) will be expended in SFY 2000-01 for the state's administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($88,068) for SFY 1999-00, ($429,405) for SFY 2000-01, and ($442,349) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers of durable medical equipment for the provision of certain durable medical equipment items. This proposed rule will reduce reimbursement by approximately ($125,221) for SFY 1999-00, ($609,343) for SFY 2000-01, and ($627,623) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0010#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Durable Medical Equipment (DME)
E and K Procedure Codes
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures

to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing previously reimbursed certain durable medical equipment items at 80 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for specific Health Care Financing Administration Common Procedure Codes (HCPC). As a result of a budgetary shortfall, the bureau determined it was necessary to reduce reimbursement for these specified HCPC procedure codes (*Louisiana Register*, Volume 26, Number 2). Reimbursement was reduced to 70 percent of the Medicare fee schedule amount or to billed charges, whichever is the lesser amount, for the following HCPC procedure codes:

| | |
|---|---|
| E1050-E1060 | Wheelchairs with special features |
| E1070-E1110 | |
| E1170-E1213 | |
| E1221-E1224 | |
| E1240-E1295 | |
| K0002-K0014 | |
| L7803-L8030 | Breast Prosthesis |
| L8039 | |
| L8400-L8435 | Prosthetic Sheaths |
| L8470-L8485 | Prosthetic Socks |
| L8100-L8230 | Elastic Support Stockings |
| L8239 | |
| A7003-A7017 | Nebulizer Administrative Supplies |
| K0168-K0181 | |
| K0529-K0530 | |
| E0840-E0948 | Traction Equipment |
| E0781, K0455 | External Ambulatory Infusion Pumps |
| E0621 | Patient Lift Slings |
| E0480 | Percussors |
| E0550-E0560 | Humidifiers |
| E0565 | Compressors |

If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

The bureau now proposes to adopt a Rule to continue the provisions contained in the February 8, 2000, and the October 7, 2000 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific HCPC procedure codes. Reimbursement is reduced to 70 percent of the Medicare Fee Schedule amount or to billed charges, whichever is the lesser amount, for the following HCPC procedure codes:

| | |
|---|---|
| E1050-E1060 | Wheelchairs with special features |
| E1070-E1110 | |
| E1170-E1213 | |
| E1221-E1224 | |
| E1240-E1295 | |
| K0002-K0014 | |
| L7803-L8030 | Breast Prosthesis |
| L8039 | |
| L8400-L8435 | Prosthetic Sheaths |
| L8470-L8485 | Prosthetic Socks |
| L8100-L8230 | Elastic Support Stockings |
| L8239 | |
| A7003-A7017 | Nebulizer Administrative Supplies |
| K0168-K0181 | |
| K0529-K0530 | |
| E0840-E0948 | Traction Equipment |
| E0781, K0455 | External Ambulatory Infusion Pumps |
| E0621 | Patient Lift Slings |
| E0480 | Percussors |
| E0550-E0560 | Humidifiers |
| E0565 | Compressors |

If an item is not available at the rate of 70 percent of the Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Durable Medical Equipment (DME) E and K Procedure Codes—Reimbursement Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($3,755) for SFY 1999-00, ($18,080) for SFY 2000-01, and ($18,726) for SFY 2001-02. It is anticipated that $200 ($100 SGF and $100 FED) will be expended in SFY 2000-01 for the state's administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($8,901) for SFY 1999-00, ($43,306) for SFY 2000-01, and ($44,708) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers for certain durable medical equipment items. This proposed rule will reduce reimbursement by approximately ($12,656) for SFY 1999-00, ($61,586) for SFY 2000-01, and ($63,433) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

| Ben A. Bearden | H. Gordon Monk |
|---|---|
| Director | Staff Director |
| 0010#075 | Legislative Fiscal Office |

## NOTICE OF INTENT

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

Durable Medical Equipment (DME)—Enteral Formulas Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing previously reimbursed for various groupings of enteral formulas either at 100 percent of the Medicare Fee Schedule, at an established flat fee amount, or at the Manufacturer's Suggested Retail Price or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the bureau determined it was necessary to reduce reimbursement for these enteral formulas. Reimbursement was reduced to 80 percent of the Medicare Fee Schedule, or a rate of 80 percent of the established flat fee amount, or 80 percent of the MSRP, or billed charges, whichever is the lesser amount (*Louisiana Register*, Volume 26, Number 9). If an enteral formula is not available at the rate of 80 percent of the Medicare Fee Schedule, 80 percent of the established flat fee amount, or at 80 percent of MSRP, the flat fee to be utilized will be the lowest cost at which the enteral formula has been determined to be widely available by analyzing usual and customary fees charged in the community.

The Bureau now proposes to adopt a Rule to continue the provisions contained in the February 8, 2000, and October 7, 2000 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement for enteral formulas to 80 percent of the Medicare Fee Schedule, or a rate of 80 percent of the established flat fee amount, or 80 percent of the Manufacturer's Suggested Retail Price (MSRP), or billed charges, whichever is the lesser amount. If an enteral formula is not available at the rate of 80 percent of the Medicare Fee Schedule, 80 percent of the established flat fee amount, or 80 percent of the MSRP, the flat fee that will be utilized is the lowest cost at which the enteral formula has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Durable Medical Equipment (DME) Enteral Formulas—Reimbursement Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($78,722) for SFY 1999-00, ($381,057) for SFY 2000-01, and ($392,571) for SFY 2001-02. It is anticipated that $160 ($80 SGF and $80 FED) will be expended in SFY 2000-01 for the state's administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($186,604) for SFY 1999-00, ($909,897) for SFY 2000-01, and ($937,276) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers of enteral formulas. This proposed rule will reduce reimbursement by approximately ($265,326) for SFY 1999-00, ($1,291,114) for SFY 2000-01, and ($1,329,847) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

| | |
|---|---|
| Ben A. Bearden | H. Gordon Monk |
| Director | Staff Director |
| 0010#078 | Legislative Fiscal Office |

## NOTICE OF INTENT

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

Durable Medical Equipment (DME)CFlat Fee Amounts Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing previously provided reimbursement for certain durable medical equipment items at a rate of 80 percent of the Medicare allowable fee or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the sureau has determined it is necessary to change the reimbursement methodology for these items from a percentage of the Medicare allowable fee to a Medicaid established flat fee amount, or billed charges, whichever is the lesser amount (*Louisiana Register*, Volume 26, Number 2). The Medicaid established flat fee amount will be as follows:

| **Enteral infusion pumps** | | |
|---|---|---|
| B9000, B9002 | $595 purchase | $92 rental per month |
| B0777, B0778 | | |
| **Standard type wheelchairs** | | |
| E1130 and K0001 | $250 purchase | $35 rental per month |
| E1140 | $412.50 purchase | $38.50 rental per month |
| E1150 | $453.75 purchase | $42.35 rental per month |
| E1160 | $375 purchase | $50 rental per month |
| **Hospital beds** | | |
| E0255 | $650 purchase | $75 rental per month |
| E0265 | $1250 purchase | $75 rental per month |
| **Artificial eyes** | | |
| V2623 | $500 purchase | |
| **Commode chairs** | | |
| E0163 | $55 purchase | |
| E0164 | $83.55 purchase | |
| E0165 | $85 purchase | |
| E0166 | $142.80 purchase | |
| **Stationary suction machines** | | |
| Z0500 | $225 purchase | $35 rental per month |

If an item is not available at the established flat fee, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

The bureau now proposes to adopt a rule to continue the provisions contained in the February 8,2000 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for designated durable medical equipment items from 80 percent of the Medicare allowable fee or billed charges, whichever is the lesser amount, to the following Medicaid established flat fee amounts or billed charges, whichever is the lesser amount. The Medicaid established flat fee amounts will be as follows:

| **Enteral infusion pumps** | | |
|---|---|---|
| B9000, B9002 | $595 purchase | $92 rental per month |
| B0777, B0778 | | |
| **Standard type wheelchairs** | | |
| E1130 and K0001 | $250 purchase | $35 rental per month |
| E1140 | $412.50 purchase | $38.50 rental per month |
| E1150 | $453.75 purchase | $42.35 rental per month |
| E1160 | $375 purchase | $50 rental per month |
| **Hospital beds** | | |
| E0255 | $650 purchase | $75 rental per month |
| E0265 | $1250 purchase | $75 rental per month |
| **Artificial eyes** | | |
| V2623 | $500 purchase | |
| **Commode chairs** | | |
| E0163 | $55 purchase | |
| E0164 | $83.55 purchase | |
| E0165 | $85 purchase | |
| E0166 | $142.80 purchase | |
| **Stationary suction machines** | | |
| Z0500 | $225 purchase | $35 rental per month |

If an item is not available at the established flat fee, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, November 28,

2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Durable Medical Equipment Flat Fee Amounts Reimbursement Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($12,806) for SFY 1999-00, ($58,413) for SFY 2000-01, and ($60,269) for SFY 2001-02. It is anticipated that $200 ($100 SGF and $100 FED) will be expended in SFY 2000-01 for the state=s administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($28,648) for SFY 1999-00, ($139,604) for SFY 2000-01, and ($143,895) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers of durable medical equipment for the provision of certain durable medical equipment. This proposed rule will reduce reimbursement by approximately ($40,734) for SFY 1999-00, ($198,217) for SFY 2000-01, and ($204,164) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0010#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

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

Durable Medical Equipment (DME)
Orthotics and Prosthetics
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing previously reimbursed certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at 80 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the bureau determined it was necessary to reduce the reimbursement for orthotic and prosthetic items *(Louisiana Register*, Volume 26, Number 2). Reimbursement was reduced to 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC procedure codes:

| | |
|---|---|
| L0100-L2999 | Orthotics |
| L3650-L4380 | |
| L5000-L7499 | Prosthetics |

If an item is not available at 70 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

The bureau now proposes to adopt a Rule to continue the provisions contained in the February 8, 2000 and October 7, 2000 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific HCPC procedure codes. Reimbursement is reduced to 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC procedure codes:

| | |
|---|---|
| L0100-L2999 | Orthotics |
| L3650-L4380 | |
| L5000-L7499 | Prosthetics |

If an item is not available at 70 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this

proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Durable Medical Equipment (DME) Orthotics And Prosthetics Reimbursement Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($21,038) for SFY 1999-00, ($101,797) for SFY 2000-01, and ($104,913) for SFY 2001-02. It is anticipated that $120 ($60 SGF and $60 FED) will be expended in SFY 2000-01 for the state=s administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($49,869) for SFY 1999-00, ($243,127) for SFY 2000-01, and ($250,482) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers of durable medical equipment for the provision of certain durable medical equipment items. This proposed rule will reduce reimbursement by approximately ($70,907) for SFY 1999-00, ($345,044) for SFY 2000-01, and ($355,395) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden — Director
H. Gordon Monk — Staff Director, Legislative Fiscal Office
0010#081

**NOTICE OF INTENT**

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

Durable Medical Equipment (DME)
Ostomy and Urological Supplies
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing previously reimbursed certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at either 80 percent of the Medicare Fee Schedule, or 80 percent of the Manufacturer's Suggested Retail Price (MSRP), or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the Bureau determined it was necessary to reduce the reimbursement rates for these items *(Louisiana Register*, Volume 26, Number 2). The reimbursement was reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the MSRP amount, or billed charges, whichever is the lesser amount, for the following HCPC codes:

| | |
|---|---|
| A4200- A4460 | Ostomy and Urological supplies |
| A4927-A5149 | |
| K0133-K0139 | |
| A6020-A6406 | Wound dressings and supplies |
| K0216-K0437 | |

If an item is not available at 70 percent of the Medicare Fee Schedule amount or 70 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

The bureau now proposes to adopt a Rule to continue the provisions contained in the February 8, 2000 and October 7, 2000 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes. The reimbursement is reduced to 70 percent of the Medicare Fee Schedule, or seventy 70 of the Manufacturer's Suggested Retail Price (MSRP) amount, or billed charges, whichever is the lesser amount, for the following HCPC codes:

| | |
|---|---|
| A4200- A4460 | Ostomy and Urological supplies |
| A4927-A5149 | |
| K0133-K0139 | |
| A6020-A6406 | Wound dressings and supplies |
| K0216-K0437 | |

If an item is not available at 70 percent of the Medicare Fee Schedule amount or 70 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Durable Medical Equipment (DME) Ostomy and Urological Supplies Reimbursement Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($8,497) for SFY 1999-00, ($41,058) for SFY 2000-01, and ($42,372) for SFY 2001-02. It is anticipated that $160 ($80 SGF and $80 FED) will be expended in SFY 2000-01 for the state's administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($20,141) for SFY 1999-00, ($98,139) for SFY 2000-01, and ($101,165) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers of durable medical equipment for the provision of certain durable medical equipment items. This proposed rule will reduce reimbursement by approximately ($28,638) for SFY 1999-00, ($139,357) for SFY 2000-01, and ($143,537) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0010#082

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Durable Medical Equipment (DME)—Oxygen Concentrators and Glucometers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for oxygen concentrators and glucometers in the Durable Medical Equipment (DME) Program. Previously, oxygen concentrators were reimbursed at a flat fee of $1500 for purchase or $175 per month rental, or billed charges, whichever is the lesser amount. Glucometers were reimbursed at a flat fee of $100 for purchase or billed charges, whichever is the lesser amount (rental is not applicable). As a result of a budgetary shortfall, the bureau determined it was necessary to reduce the reimbursement fees for oxygen concentrators to $1250 for purchase or $150 per month for rental, or billed charges, whichever is the lesser amount. The reimbursement fees for glucometers were reduced to $30 for purchase or billed charges, whichever is the lesser amount. If an item is not available at the established rate, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community (*Louisiana Register*, Volume 26, Numbers 2 and 9).

The bureau now proposes to adopt a rule to continue the provisions contained in the February 8, 2000 and October 7, 2000 emergency rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement fees for oxygen concentrators to $1250 for purchase or $150 per month for rental, or billed charges, whichever is the lesser amount. The reimbursement fees for glucometers is reduced to $30 for purchase, or billed charges, whichever is the lesser amount. If an item is not available at the established rate, the flat fee that will be utilized is the lowest cost at which the item has been

determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Durable Medical Equipment Oxygen Concentrators and Glucometers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($14,399) for SFY 1999-00, ($69,656) for SFY 2000-01, and ($71,807) for SFY 2001-02. It is anticipated that $120 ($60 SGF and $60 FED) will be expended in SFY 2000-01 for the state=s administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($34,133) for SFY 1999-00, ($166,388) for SFY 2000-01, and ($171,442) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers of durable medical equipment for the provision of oxygen concentrators and glucometers. This proposed rule will reduce reimbursement by approximately ($48,532) for SFY 1999-00, ($236,164) for SFY 2000-01, and ($243,248) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden
Director
0010#080

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Durable Medical Equipment (DME)
Parenteral and Enteral Supplies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing previously reimbursed certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at either 80 percent of the Medicare Fee Schedule, or at 100 percent of the Medicare Fee Schedule, or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the bureau determined it was necessary to reduce the reimbursement rate for these items *(Louisiana Register*, Volume 26, Number 2). The reimbursement was reduced to 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC codes:

| | |
|---|---|
| B4034-B4084, B9004-B9999 E0776, E0791 | Parenteral and Enteral supplies |
| A4624-A4625 | Suction Catheters |
| A4621 | Tracheostomy masks or collars |
| A4623 | Tracheostomy cannulas |

If an item is not available at 70 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

The reimbursement was reduced to 90 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC codes:

| | |
|---|---|
| A4622 | Tracheostomy tubes |
| A4629 | Tracheostomy care kits |

If an item is not available at 90 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

The Bureau now proposes to adopt a Rule to continue the provisions contained in the February 8, 2000 and October 7, 2000 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes. The reimbursement is reduced to 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC codes:

| | |
|---|---|
| B4034-B4084, B9004-B9999 | Parenteral and Enteral |
| E0776, E0791 | supplies |
| A4624-A4625 | Suction Catheters |
| A4621 | Tracheostomy masks or collars |
| A4623 | Tracheostomy cannulas |

If an item is not available at 70 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

The reimbursement is reduced to 90 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC codes:

| | |
|---|---|
| A4622 | Tracheostomy tubes |
| A4629 | Tracheostomy care kits |

If an item is not available at 90 percent of the Medicare Fee Schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Durable Medical Equipment (DME) Parenteral and Enteral Supplies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($29,300) for SFY 1999-00, ($141,779) for SFY 2000-01, and ($146,114) for SFY 2001-02. It is anticipated that $160 ($80 SGF and $80 FED) will be expended in SFY 2000-01 for the state's administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($69,454) for SFY 1999-00, ($338,612) for SFY 2000-01, and ($348,853) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers of durable medical equipment for the provision of certain durable medical equipment items. This proposed rule will reduce reimbursement by approximately ($98,754) for SFY 1999-00, ($480,551) for SFY 2000-01, and ($494,967) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

| | |
|---|---|
| Ben A. Bearden | H. Gordon Monk |
| Director | Staff Director |
| 0010#083 | Legislative Fiscal Office |

## NOTICE OF INTENT

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

Durable Medical Equipment (DME)
Z and E Procedure Codes
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures

to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing previously provided reimbursement of a flat fee or reimbursement at billed charges, whichever is the lesser amount, for all durable medical equipment items identified by Health Care Financing Administration Common Procedure Codes (HCPC) beginning with the letter "Z", except codes for enteral formulas; all miscellaneous equipment items identified with the HCPC code E1399; and all home health supply items and other miscellaneous supplies identified with the HCPC code Z1399. As a result of a budgetary shortfall, the bureau determined it was necessary to reduce the reimbursement for medical equipment and home health supply items in the Durable Medical Equipment Program that are identified by a HCPC code beginning with the letter "Z" (except codes for enteral formulas), or HCPC code E1399, or HCPC code Z1399, to either 70 percent of the established flat fee, or 70 percent of the Manufacturers Suggested Retail Price (MSRP) or billed charges, whichever is the lesser amount. If an item is not available at the rate of 70 percent of the established flat fee or 70 percent of MSRP, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community *(Louisiana Register*, Volume 26, Number 9).

The bureau now proposes to adopt a Rule to continue the provisions contained in the October 7, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for all durable medical equipment items identified by Health Care Financing Administration Common Procedure Codes (HCPC) beginning with the letter "Z", except codes for enteral formulas; all miscellaneous equipment items authorized with the HCPC codes E1399; and all home health supply items and other miscellaneous supplies identified with the HCPC code Z1399 to 70 percent of the established flat fee, or 70 percent of the Manufacturer=s Suggested Retail Price (MSRP) or billed charges, whichever is the lesser amount. If an item is not available at the rate of 70 percent of the established flat fee or 70 percent of MSRP, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Durable Medical Equipment (DME) Z and E Procedure CodesCReimbursement Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately ($37,259) for SFY 1999-00, ($180,309) for SFY 2000-01, and ($185,801) for SFY 2001-02. It is anticipated that $160 ($80 SGF and $80 FED) will be expended in SFY 2000-01 for the state=s administrative cost of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately ($88,318) for SFY 1999-00, ($430,606) for SFY 2000-01, and ($443,607) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce reimbursement to providers of durable medical equipment. This proposed rule will reduce reimbursement by approximately ($125,577) for SFY 1999-00, ($611,075) for SFY 2000-01, and ($629,408) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the rate reduction, some providers of durable medical equipment may find it necessary to reduce staff or staff hours of work.

| Ben A. Bearden | H. Gordon Monk |
|---|---|
| Director | Staff Director |
| 0010#077 | Legislative Fiscal Office |

**NOTICE OF INTENT**

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

Private Intermediate Care Facilities for the Mentally RetardedCHospital Leave of Absence Days Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in

the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICF/MR) in a Rule adopted October 20, 1989 *(Louisiana Register,* Volume 15, Number 10). The reimbursement methodology contained provisions governing the payment to private ICFs/MR when the recipient is absent from the facility due to hospitalization or visits with family. A Rule was subsequently adopted in April of 1999 to expand the number of payable hospital leave of absence days from five to seven days per hospitalization for treatment of an acute condition *(Louisiana Register*, Volume 25, Number 4).

As a result of a budgetary shortfall, the bureau determined it was necessary to adopt a Rule to reduce the payment to private ICFs/MR for hospital leave days by 25 percent. The reimbursement to private ICFs/MR for hospital leave days was reduced to 75 percent of the applicable per diem rate *(Louisiana Register,* Volume 26, Number 2). The bureau now proposes to adopt a Rule to continue the provisions contained in the March 8, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. The proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement paid to private intermediate care facilities for the mentally retarded for hospital leave days by 25 percent. The reimbursement for hospital leave days is reduced to 75 percent of the applicable ICF/MR per diem rate.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Private Intermediate Care Facilities for the Mentally RetardedCHospital Leave of Absence Days Reimbursement Methodology**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease state program costs by approximately ($8,560) for SFY 1999-00, ($35,029) for SFY 2000-01, and ($36,142) for SFY 2001-02. It is anticipated that $120 ($60 SGF and $60 FED) will be expended in SFY 2000-01 for the state=s administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately ($20,291) for SFY 1999-00, ($83,717) for SFY 2000-01, and ($86,290) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce the payment to private ICFs/MR for hospital leave days by twenty-five percent (25%). This proposed rule will decrease reimbursement by approximately ($28,851) for SFY 1999-00, ($118,866) for SFY 2000-01, and ($122,432) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. However, some facilities may find it necessary to reduce staff hours during the hospitalization of a resident.

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|---|---|
| Ben A. Bearden | H. Gordon Monk |
| Director | Staff Director |
| 0010#084 | Legislative Fiscal Office |

**NOTICE OF INTENT**

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

Private Nursing FacilitiesCHospital Leave of Absence Days Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing established the reimbursement methodology for private nursing facilities in a rule adopted June 20, 1984 *(Louisiana Register*, Volume 10, Number 6). The reimbursement methodology contained provisions governing the payment to private nursing facilities when the recipient is absent from the faculty due to hospitalization or visits with family. A rule was subsequently adopted in May of 1998 to expand the number of payable hospital leave of absence days from five to seven per hospitalization for treatment of an acute condition *(Louisiana Register*, Volume 24, Number 5).

As a result of a budgetary shortfall, the bureau determined it was necessary to adopt a rule to reduce the payment to private nursing facilities for hospital leave days by 25 percent The reimbursement to private nursing facilities for hospital leave days was reduced to 75 percent of the applicable per diem rate *(Louisiana Register,* Volume 26, Number 2). The bureau now proposes to adopt a Rule to continue the provisions contained in the March 8, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to private nursing facilities for hospital leave days by 25 percent The reimbursement for hospital leave days is reduced to 75 percent of the applicable per diem rate.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Private Nursing FacilitiesCHospital Leave of Absence Days-Reimbursement Methodology**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease state program costs by approximately ($129,513) for SFY 1999-00, ($530,836) for SFY 2000-01, and ($546,823) for SFY 2001-02. It is anticipated that $120 ($60 SGF and $60 FED) will be expended in SFY 2000-01 for the state=s administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately ($306,999) for SFY 1999-00, ($1,267,473) for SFY 2000-01, and ($1,305,559) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce the payment to private nursing facilities for hospital leave days by twenty-five percent (25%). This proposed rule will decrease reimbursement by approximately ($436,512) for SFY 1999-00, ($1,798,429) for SFY 2000-01, and ($1,852,382) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. However, some facilities may find it necessary to reduce staff hours during the hospitalization of a resident.

Ben A. Bearden
Director
0010#085

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Substance Abuse ClinicsCTermination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously provided coverage for substance abuse clinic services under the Medicaid Program. Section 440.225 of the Code of Federal Regulations (42 CFR) states that "any of the services defined in subpart A of this part that are not required under sections 440.210 and 440.220 may be furnished under the State Plan at the state's option". Substance abuse services are considered an optional service under Title XIX of the Social Security Act. Therefore, each state may choose to either include or exclude this service under its Medicaid State Plan.

As a result of a budgetary shortfall, the bureau determined it was necessary to terminate coverage of this optional services program under its Title XIX State Plan *(Louisiana Register*, Volume 26, Number 2). The bureau now proposes

to adopt a rule to continue the provisions contained in the February 21, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. It is anticipated that this proposed Rule will not adversely impact family functioning, stability, or autonomy as described in R.S. 49:972 since substance abuse clinic services will continue to be available through the Office of Addictive Disorders.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement for substance abuse clinic services under the Medicaid Program.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 28, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Substance Abuse Clinics Termination of Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce state program costs by approximately ($585,183) for SFY 1999-00, ($1,799,012) for SFY 2000-01, and ($1,853,045) for SFY 2001-02. It is anticipated that $120 ($60 SGF and $60 FED) will be expended in SFY 2000-01 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately ($1,387,121) for SFY 1999-00, ($4,295,287) for SFY 2000-01, and ($4,424,207) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will terminate coverage of substance abuse clinic services under the Medicaid Program. This proposed rule will reduce expenditures by approximately ($1,972,304) for SFY 1999-00, ($6,094,419) for SFY 2000-01, and ($6,277,252) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition. As a result of the termination of coverage for these services, some providers may find it necessary to reduce staff or staff hours of work.

| Ben A. Bearden | H. Gordon Monk |
|---|---|
| Director | Staff Director |
| 0010#086 | Legislative Fiscal Office |

## NOTICE OF INTENT

**Department of Health and Hospitals**
**Office of the Secretary**
**Bureau of Protective Services**

Protective Services Agency (LAC 48:I.Chapter 171)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services proposes to amend the following Rule as authorized by R.S. 14:403.2 and 36:254 et seq. This proposed Rule is amended in accordance with the Administrative Procedures Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services promulgated a Rule establishing the protective services agency for disabled adults in April of 1994 (*Louisiana Register,* Volume 20, Number 12). R.S. 14:403.2, the adult protective services law, has subsequently been amended by Act 841 of the 1995 regular session of the Louisiana legislature, Act 1183 of the 1997 regular session of the Louisiana legislature, and Act 338 of the 1999 regular session of the Louisiana legislature. The bureau now proposes to amend the Rule to incorporate changes made by these Acts, to reword certain sections to make them more consistent with the statutory language, and to reword certain sections to improve their clarity.

In compliance with Act 1193 of the 1999 regular session of the Louisiana Legislature, the impact of this proposed amendment on the family has been considered. This proposed amendment has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Title 48**
**PUBLIC HEALTH - GENERAL**
**Part I. General Administration**
**Subpart 13. Protective Services Agency**

**Chapter 171. Bureau of Protective Services**

**§17101. Statement of Policy**

A. ...

B. In pursuit of this commitment and in accordance with the provisions of R.S. 14:403.2, the Department of Health and Hospitals names the Bureau of Protective Services as the Protective Services Agency in order to provide protection to persons ages 18-59 with mental, physical, or developmental disabilities that substantially impair the person=s ability to provide adequately for his/her own protection.

C. The primary function of the Bureau of Protective Services is to investigate and/or assess reports of abuse, neglect, exploitation, or extortion consistent with the criteria contained in R.S. 14.403.2 to determine if the situation and condition of the subject of the report warrant further action and, if so, to prepare and implement a plan aimed at remedying or improving the situation. Bureau of Protective Services staff will provide protective services to each individual in need of protection until that person=s situation has stabilized, or that person is no longer at risk from the situation described in the report, or that person, having demonstrated the capacity to do so, refuses assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:434 (April 1994), amended LR 27:

### §17103. Goals and Objectives

A. The primary goal of the Bureau of Protective Services is to prevent, remedy, halt, or hinder abuse, neglect, exploitation, or extortion of individuals in need of services as defined in this regulation and consistent with the provisions of R.S. 14:403.2. In order to achieve this goal, the Bureau of Protective Services shall pursue the following objectives:

1. - 2. ...

3. in concert with other community service and health service providers, to arrange and facilitate the process toward developing individual and family capacities to promote safe and caring environments for individuals in need of protection.

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:435 (April 1994), amended LR 27:

### §17105. Definitions

A. For the purposes of this chapter, the following definitions shall apply:

*Abuse*Cthe infliction of physical or mental injury on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered. In determining whether an injury is sufficient to endanger the health, self-determination, or emotional well-being of the adult, the following criteria shall apply:

a. - b. ...

c. with respect to isolation, acts of isolation used in a manner where the individual is alone in a room/area from which he/she cannot leave, constitute behavior which has the potential to result in mental injury or unwarranted restriction of the adult=s self-determination.

d. ...

*Adult*Cany individual 18 years of age or older or an emancipated minor.

*Bureau of Protective Services (BPS) or the Bureau*Cthat agency determined by the Department of Health and Hospitals as the Protective Services Agency, pursuant to the provisions of R.S. 14:403.2, to provide protection to disabled adults as defined herein.

*Capacity to consent*Cthe ability to understand and appreciate the nature and consequences of making decisions regarding one=s person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs.

*Caregiver*Cany person or persons, either temporarily or permanently responsible for the care of a physically or mentally disabled individual. Caregiver includes but is not limited to adult children, parents, relatives, neighbors, day-care personnel, adult foster home sponsors, providers of substitute family care, personnel of public and private institutions and facilities, adult congregate living facilities, and nursing homes which have voluntarily assumed the care of an individual, have assumed voluntary residence with an individual, or have assumed voluntary use or tutelage of an individual=s assets, funds, or property, and specifically shall include city, parish, or state law enforcement agencies.

*Disabled Person*Ca person with a mental, physical, or developmental disability that substantially impairs the person=s ability to provide adequately for his/her own care or protection.

*Emancipated Minor*Ca person under the age of 18 who administers his/her own affairs or who is relieved of the incapacities which normally attach to minority. Minors can be emancipated by notarial act, marriage, or judicial pronouncement.

*Exploitation*Cthe illegal or improper use or management of a disabled adult=s funds, assets, or property, or the use of a disabled adult=s power of attorney or guardianship for one=s own profit or advantage.

*Extortion*Cthe acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, abuse, neglect, or official authority.

*Neglect*Cthe failure by the caregiver responsible for an adult=s care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be neglected or abused.

*Individual or Individual In Need of Protection*Cany person ages 18 through 59 years of age or an emancipated minor, who because of mental, physical, or developmental disability, is substantially impaired in his/her ability to provide adequately for his/her own care or protection and is found, upon investigation or assessment to have suffered harm or to be at substantial risk of suffering harm from abuse, neglect, exploitation, or extortion.

*Protective Services*Cthose activities developed to assist individuals in need of protection. Protective services include but are not limited to: receiving and screening information on allegations of abuse, neglect, exploitation or extortion; conducting investigations and/or assessments of those allegations to determine if the situation and condition of the alleged victim warrants corrective or other action, preparing a plan using available community resources aimed at remedying or reducing the risk from abuse, neglect, exploitation or extortion, providing case management, as needed, to assure stabilization of the situation, and arranging of or making referrals for needed services and/or legal assistance to initiate any necessary remedial action.

*Regional Coordinating Council*Ca regionally constituted committee composed of representatives of both public and private agencies which provide services to individuals in need of protection. These Regional Coordinating Councils are designed to maximize resources available to individuals in need of protection particular to that region by effecting a regionally individualized plan for the allocation or reallocation of available resources, expansion of programs, or redirection of current resource allocation.

*Self-Neglect*Cthe failure, either by the individual=s action or inaction, to provide the proper or necessary support or medical/surgical or other care necessary for his/her well-

being. No individual who is provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be self-neglected.

AUTHORITY NOTE; Promulgated in accordance with R.S. 14:403.2

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:435 (April 1994), amended LR 27:

### §17109. Eligibility for Services

A. The protection of this rule extends to all disabled persons 18-59 years of age or emancipated minors living in the community, either independently or with the help of others, in any situation that is not licensed by a governmental regulatory agency, and who are alleged to be abused, neglected, exploited, or extorted.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:435 (April 1994), amended LR 27:

### §17111. Reporting

A. ...

B. Intake. Incident reports received by the Bureau shall be screened to determine eligibility, and shall be assigned a Priority status for investigation as described in Section 17121 of this Chapter. When reports are not accepted by the Bureau, the reporter shall be advised why his/her report was rejected for investigation. Such reports will be referred to other social, medical, and law enforcement agencies, as deemed appropriate.

1. - 2. ...

C. Investigation. Reports accepted by the Bureau of Protective Services for investigation shall be prioritized according to Section 17121 of this rule. The subsequent investigation and assessment shall determine if the situation and condition of the adult requires further action and shall include determining the nature, extent, and cause of the abuse, neglect, exploitation, extortion, identifying the person or persons responsible for abuse, neglect, exploitation, or extortion, if known; if possible, interviewing the individual and visiting the individual=s home or the location where the incident occurred. The investigation or assessment shall also include consultation with others having knowledge of the facts of the case. A report of the investigation shall be prepared, which contains an assessment of the individual=s present condition/status.

D. - F. ...

G Right to Refuse Services. Protective Services may not be provided in cases of self-neglect to any individual who does not consent to such services or who, having consented, withdraws such consent. Nothing herein shall prohibit the Bureau of Protective Services, the district attorney, the coroner, or the judge from petitioning for interdiction pursuant to Civil Code, Articles 389-426 or petitioning for an order for protective custody or for judicial commitment pursuant to R.S. 28:50 et seq., seeking an order for emergency protective services pursuant to Subsection N of R.S. 14:403.2, or prohibit the district attorney from seeking an order for involuntary protective services pursuant to Subparagraph F(1)(e) of R.S.14:403.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:436 (April 1994), amended LR 27:

### §17113. Confidentiality

A. Information contained in the case records of the Bureau of Protective Services shall not be released without a written authorization from the involved individual or his/her legally authorized representative, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or the filing of false reports of abuse or neglect, or to social service agencies, licensed health care providers, and appropriate local or state agencies where indicated for the purpose of coordinating the provision of services or treatment necessary to reduce the risk to the adult from abuse, neglect, exploitation, or extortion.

B. The identity of any person who in good faith makes a report of abuse, neglect, exploitation, or extortion shall be confidential and shall not be released without the written authorization of the person making the report, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or to the filing of false reports of abuse or neglect.

C. Prior to releasing any information, except information released to law enforcement agencies as provided herein, the adult protection agency shall edit the released information to protect the confidentiality of the reporter=s identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:437 (April 1994), amended LR 26:

### §17117. The Department of Health and Hospital=s Protective Services System

A. The Department will deliver protective services through direction and oversight by a centrally located Bureau of Protective Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:437 (April 1994), amended LR 27:

Interested persons may submit comments to Hugh Eley, Bureau of Protective Services, P.O. Box 3518, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed amendment. The deadline for receipt of all written comments is 4:30 p.m. November 20, 2000.

**Family Impact Statement**

1. The Effect on the Stability of the Family. None. The proposed rule only makes housekeeping amendments so that existing rule will conform to statutory language.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. None. Program deals only with adults.

3. The Effect on the Functioning of the Family. None. Proposed rule only makes housekeeping amendments so that existing rule will conform to statutory language.

4. The Effect on Family Earnings and Family Budget. None.

5. The Effect on the Behavior and Personal Responsibility of Children. None. Program deals only with adults.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. None. Proposed amendment imposes no functions on families or local government.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Protective Services Agency**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost is $440.00 for FY 00-01, $0 for FY 01-02, and $0 for FY 02-03. This is the cost of printing and publishing the Notice of Intent and Rule in the Louisiana Register. There are no other estimated implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections. The rule is being amended to comply with recent statutory language changes and has no effect on revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effect on competition and employment.

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|---|---|
| Linda Brassette | H. Gordon Monk |
| Director | Staff Director |
| 0010#093 | Legislative Fiscal Office |

**NOTICE OF INTENT**

**Port Commissions**
**Board of River Port Pilot Commissioners**

Continuing Education

In accordance with the Administrative Procedure Act R.S. 49:950 et seq. and R.S. 34:991(B)(3), the Board of River Port Pilot Commissioners hereby gives notice that it intends to adopt Section 5 as follows.

**Section 5. Continuing Education**

Rule 1

A pilot must attend 40 hours of professional education classes and programs every five years. In addition a pilot must attend a ship simulator training program every five years. This requirement will be effective January 1, 2001.

Rule 2

The professional education classes and programs approved by the Board include but are not limited to:

a. electronic ship simulation training;
b. small scale ship simulation training;
c. ARPA Training;
d. VTS/VTIS Simulator Training;
e. bridge resource management training for pilots;
f. any other courses or programs that the board deems appropriate.

Rule 3

Any pilot who fails to attend the required professional education classes and programs may be reprimanded, fined, and/or suspended until the pilot complies with this section.

Rule 4

It shall be the responsibility of the pilot to file with the board proof that the pilot attended the professional education classes and programs.

Rule 5

It shall be the responsibility of the pilot to attend professional education classes and programs approved by the board.

Rule 6

The cost of attending professional education classes shall not be at the expense of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991 et seq.

HISTORICAL NOTE: Promulgated by the Port Commissions, Board of River Port Pilot Commissioners, LR 27:

Capt. Donald J. Short
President

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Continuing Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state of local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

River Port Pilots will incur costs and expenses to acquire the mandated continuing education and training. The cost of the education and training is approximately $3,000 every five-year cycle.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The changes will have no effect on competition and employment.

| | |
|---|---|
| Donald Short | H. Gordon Monk |
| President | Staff Director |
| 0010#058 | Legislative Fiscal Office |

**NOTICE OF INTENT**

**Office of Public Safety and Corrections**
**Gaming Control Board**

Louisiana Business (LAC 42:XIII.1701)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:XIII.1701 in accordance with R.S.

27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**
**LOUISIANA GAMING**
**Part XIII. Riverboat Gaming**
**Chapter 17. General Provisions**
**§1701. Definitions**

* * *

*Louisiana Business, Louisiana Company or Louisiana Corporation*Ca business, company or corporation which is at least 51 percent owned by one or more Louisiana domiciliaries who also control and operate the business. A business, company or corporation qualified with the Secretary of State and authorized to do business in Louisiana which has a physical presence in the state in the form of property or facilities owned or leased in Louisiana and which employs Louisiana residents who control or operate the Louisiana business activity or enterprise may be considered a Louisiana business, company or corporation. *Control* in this context means exercising the power to make policy decisions. *Operate* in this context means being actively involved in the day-to-day management of the business.

* * *

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 19:1176 (September 1993), amended LR 21:705 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 26:1317 (June 2000), LR 27:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through November 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the amendment of LAC 42:XIII.1701.

It is accordingly concluded that the amendment of LAC 42:XIII.1701 would appear to have no estimable impact on the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or 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: Louisiana Business**

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

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|---|---|
| Hillary J. Crain | Robert E. Hosse |
| Chairman | General Government Section Director |
| 0010#066 | Legislative Fiscal Office |

## NOTICE OF INTENT

**Department of Public Safety and Corrections**
**Office of State Police**

Vehicle Safety Equipment
(LAC 55:III.Chapter 11)

Pursuant to R.S. 32:190 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Service, Office of State Police intends to repeal LAC 55:III.Chapter 11, Sections 1101-1105 in entirety. Notice is further given that the department intends to promulgate the following rules and regulations which define specifications and guidelines for the safe manufacture of motorcycle helmets and motorcycle goggles and safety glasses. The proposed rules are intended to adopt the same standards for motorcycle helmets and motorcycle goggles and safety glasses in the state of Louisiana which are currently mandated nationwide by the federal government.

The Superintendent of the Office of State Police will consider comments and public input for a period of ive (35) days following publication. All comments should be directed to Tammy Pruet Northrup, Post Office Box 66614, Mailslip #11, Baton Rouge, LA 70896, 225-925-6103 (phone) 225-925-4624 (facsimile). A tentative public meeting on these rules is currently scheduled for 9:00 a.m., Monday, May 29, 2000, in classroom #3 of the Louisiana State Police Training Academy located at 7901 Independence Boulevard, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

## Title 55
## PUBLIC SAFETY
## Part III. Motor Vehicles
### Chapter 11. Vehicle Safety Equipment
### Subchapter A. Motorcycle Helmets
#### §1101. Scope, Purpose and Application

A. Scope. This standard establishes minimum performance requirements for helmets designed for use by motorcyclists and other motor vehicle users.

B. Purpose. To reduce deaths and injuries to motorcyclists and other motor vehicle users resulting from head impacts.

C. Application. This standard applies to all helmets designed for use by motorcyclists and other motor vehicle users.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### §1102. Definitions

*Basic Plane*Ca plane through the centers of the right and left external ear openings and the lower edge of the eye sockets (Figure 1) of a reference headform (Figure 2 of) or test headform.

*Helmet Positioning Index*Cthe distance in inches, as specified by the manufacturer, from the lowest point of the brow opening at the lateral midpoint of the helmet to the basic plane of a reference headform, when the helmet is firmly and properly positioned on the reference headform.

*Mid-Sagittal Plane*Ca longitudinal plane through the apex of a reference headform or test headform that is perpendicular to the basic plane (Figure 3)

*Reference Headform*Ca measuring device contoured to the dimensions of one of the three headforms described in Table 2 and Figures 5 through 8 with surface markings indicating the locations of the basic, mid-sagittal, and reference planes, and the centers of the external ear openings.

*Reference Plane*Ca plane above and parallel to the basic plane on a reference headform or test headform (Figure 2 ) at the distance indicated in Table 2.

*Retention System*Cthe complete assembly by which the helmet is retained in position on the head during use.

*Test Headform*Ca test device contoured to the dimensions of one of the three headforms described in Table 2 and Figures 5 through 8 with surface markings indicating the locations of the basic, mid-sagittal, and reference planes.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### §1103. Requirements

A. Each helmet shall meet the requirements of §1104, §1105, and §1106 when subjected to any conditioning procedure specified in §1114, and tested in accordance with §1116, §1117, and §1118.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### §1104. Impact attenuation

A. When an impact attenuation test is conducted in accordance with §1116, all of the following requirements shall be met:

1. peak accelerations shall not exceed 400g;
2. accelerations in excess of 200g shall not exceed a cumulative duration of 2.0 milliseconds; and
3. accelerations in excess of 150g shall not exceed a cumulative duration of 4.0 milliseconds.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### §1105. Penetration

A. When a penetration test is conducted in accordance with §1117, the striker shall not contact the surface of the test headform.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### §1106. Retention System

A. When tested in accordance with §1118:

1. the retention system or its components shall attain the loads specified without separation; and
2. the adjustable portion of the retention system test device shall not move more than 1 inch (2.5 cm) measured between preliminary and test load positions.

B. Where the retention system consists of components which can be independently fastened without securing the complete assembly, each such component shall independently meet the requirements of §1106.A.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### §1107. Configuration

A. Each helmet shall have a protective surface of continuous contour at all points on or above the test line described in §1113.C. The helmet shall provide peripheral vision clearance of at least 105E to each side of the mid-sagittal plane, when the helmet is adjusted as specified in §1114. The vertex of these angles, shown in Figure 3, shall be at the point on the anterior surface of the reference headform at the intersection of the mid-sagittal and basic planes. The brow opening of the helmet shall be at least 1 inch (2.5 cm) above all points in the basic plane that are within the angles of peripheral vision (see Figure 3).

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### §1108. Projections

A. A helmet shall not have any rigid projections inside its shell. Rigid projections outside any helmet's shell shall be limited to those required for operation of essential accessories, and shall not protrude more than 0.20 inch (5 mm).

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

## §1109. Labeling

A. Each helmet shall be labeled permanently and legibly, in a manner such that the label(s) can be read easily without removing padding or any other permanent part, with the following:

1. manufacturer's name or identification;
2. precise model designation;
3. size;
4. month and year of manufacture. This may be spelled out (for example, June 1988), or expressed in numerals (for example, 6/88);
5. the symbol DOT, constituting the manufacturer's certification that the helmet conforms to the applicable Federal motor vehicle safety standards. This symbol shall appear on the outer surface, in a color that contrasts with the background, in letters at least 3/8 inch (1 cm) high, centered laterally with the horizontal centerline of the symbol located a minimum of 1 1/8 inches (2.9 cm) and a maximum of 1 3/4 inches (3.5 cm) from the bottom edge of the posterior portion of the helmet;
6. instructions to the purchaser as follows:

a. shell and liner constructed of (identify type(s) of materials);

b. helmet can be seriously damaged by some common substances without damage being visible to the user. Apply only the following: recommended cleaning agents, paint, adhesives, etc., as appropriate;

c. make no modifications. Fasten helmet securely. If helmet experiences a severe blow, return it to the manufacturer for inspection, or destroy it and replace it;

d. any additional relevant safety information should be applied at the time of purchase with an attached tag, brochure, or other suitable means.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

## §1110. Helmet Positioning Index

A. Each manufacturer of helmets shall establish a positioning index for each helmet manufactured. This index shall be furnished immediately to any person who requests the information, with respect to a helmet identified by manufacturer, model designation, and size.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

## §1111. Preliminary Test Procedures

A. Before subjecting a helmet to the testing sequence specified in §1112, the helmet shall be prepared according to the procedures in §1112, §1113 and §1114.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

## §1112. Selection of Appropriate Headform

A. A helmet with a manufacturer's designated discrete size or size range which does not exceed 6 3/4 (European size: 54) shall be tested on the small headform. A helmet with a manufacturer's designated discrete size or size range which exceeds 6 3/4, but does not exceed 7 1/2 (European size: 60) shall be tested on the medium headform. A helmet with a manufacturer's designated discrete size or size range which exceeds 7 1/2 shall be tested on the large headform.

B. A helmet with a manufacturer's designated size range which includes sizes falling into two or all three size ranges described in section §1112.A shall be tested on each headform specified for each size range.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

## §1113. Reference Marking

A. Only a reference headform that is firmly seated with the basic and reference planes horizontal may be used. The completed helmet to be tested shall be placed on the appropriate reference headform, as specified in §1112.A and §1113.B.

B. A 10 pound (4.5 kg) static vertical load shall be applied through the helmet's apex. The helmet shall be centered laterally and seated firmly on the reference headform according to its helmet positioning index.

C. While maintaining the load and position described in §1113.C, a line shall be drawn (hereinafter referred to as "test line") on the outer surface of the helmet coinciding with portions of the intersection of that service with the following planes, as shown in Figure 2:

1. a plane 1 inch (2.5 cm) above and parallel to the reference plane in the anterior portion of the reference headform;
2. a vertical transverse plane 2.5 inches (6.4 cm) behind the point on the anterior surface of the reference headform at the intersection of the mid-sagittal and reference planes;
3. the reference plane of the reference headform;
4. a vertical transverse plane 2.5 inches (6.4. cm) behind the center of the external ear opening in a side view; and
5. a plane 1 inch (2.5 cm) below and parallel to the reference plane in the posterior portion of the reference headform.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

## §1114. Helmet Positioning

A. Before each test, the helmet shall be fixed on a test headform in the position that conforms to its helmet positioning index. The helmet shall be secured so that it does not shift position before impact or before application of force during testing.

B. In testing as specified in §1116 and §1117, the retention system shall be placed in a position such that it does not interfere with free fall, impact or penetration.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

## §1115. Conditioning

A. Immediately before conducting the testing sequence specified in §1116, each test helmet shall be conditioned in accordance with any one of the following procedures:

1. ambient conditions. Expose to a temperature of 70EF (21EC) and a relative humidity of 50 percent for 12 hours;

2. low temperature. Expose to a temperature of 14EF(-10EC) for 12 hours;

3. High temperature. Expose to a temperature of 122EF (50EC) for 12 hours;

4. water immersion. Immerse in water at a temperature of 77EF(25EC) for 12 hours.

B. If during testing, as specified in §1116.C and §1117.C, a helmet is returned to the conditioning environment before the time out of that environment exceeds 4 minutes, the helmet shall be kept in the environment for a minimum of 3 minutes before resumption of testing with that helmet. If the time out of the environment exceeds 4 minutes, the helmet shall be returned to the environment for a minimum of 3 minutes for each minute or portion of a minute that the helmet remained out of the environment in excess of 4 minutes or for a maximum of 12 hours, whichever is less, before the resumption of testing with that helmet.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§1116. Test conditions**

A. Impact Attenuation Test. Impact attenuation is measured by determining acceleration imparted to an instrumented test headform on which a complete helmet is mounted as specified in §1114, when it is dropped in guided free fall upon a fixed hemispherical anvil and a fixed flat steel anvil.

B. Each helmet shall be impacted at four sites with two successive identical impacts at each site. Two of these sites shall be impacted upon a flat steel anvil and two upon a hemispherical steel anvil as specified in §1116.I and §1116.J. The impact sites shall be at any point on the area above the test line described in paragraph §1113.C, and separated by a distance not less than one-sixth of the maximum circumference of the helmet in the test area.

C. Impact testing at each of the four sites, as specified in §1116.B, shall start at two minutes, and be completed by four minutes, after removal of the helmet from the conditioning environment.

1. The guided free fall drop height for the helmet and test headform combination onto the hemispherical anvil shall be such that the minimum impact speed is 17.1 feet/second (5.2 m/sec). The minimum drop height is 54.5 inches (138.4 cm). The drop height shall be adjusted upward from the minimum to the extent necessary to compensate for friction losses.

2. The guided free fall drop height for the helmet and test headform combination onto the flat anvil shall be such that the minimum impact speed is 19.7 ft./sec (6.0 m/sec). The minimum drop height shall be 72 inches (182.9 cm). The drop height shall be adjusted upward from the minimum to the extent necessary to compensate for friction losses.

D. Test headforms for impact attenuation testing shall be constructed of magnesium alloy (K-1A), and exhibit no resonant frequencies below 2,000 Hz.

E. The monorail drop test system shall be used for impact attenuation testing.

F. The weight of the drop assembly, as specified in Table 1, shall be the combined weight of the test headform and the supporting assembly for the drop test. The weight of the supporting assembly shall not be less than 2.0 lbs. and not more than 2.4 lbs. (0.9 to 1.1 kg). The supporting assembly weight for the monorail system shall be the drop assembly weight minus the combined weight of the test headform, the headform's clamp down ring, and its tie down screws.

G. The center of gravity of the test headform shall be located at the center of the mounting ball on the supporting assembly and lie within a cone with its axis vertical and forming a 10E included angle with the vertex at the point of impact. The center of gravity of the drop assembly shall lie within the rectangular volume bounded by x = -0.25 inch (-0.64 cm), x = 0.85 inch (2.16 cm), y = 0.25 inch (0.64 cm), and y = -0.25 inch (-0.64 cm) with the origin located at the center of gravity of the test headform. The rectangular volume shall have no boundary along the z-axis. The x-y-z axes shall be mutually perpendicular and shall have positive or negative designations in accordance with the right-hand rule (See Figure 5). The origin of the coordinate axes shall also be located at the center of the mounting ball on the supporting assembly (See Figures 6, 7, and 8). The x-y-z axes of the test headform assembly on a monorail drop test equipment shall be oriented as follows: From the origin, the x-axis shall be horizontal with its positive direction going toward and passing through the vertical centerline of the monorail. The positive z-axis shall be downward. The y-axis shall also be horizontal and its direction will be decided by the z- and x-axes, using the right-hand rule.

H. The acceleration transducer shall be mounted at the center of gravity of the test headform with the sensitive axis aligned to within ±1E of vertical when the test headform assembly is in the impact position. The acceleration data channel shall comply with SAE Recommended Practice J211 JUN 80, Instrumentation for Impact Tests, requirements for channel class 1,000.

I. The flat anvil shall be constructed of steel with a 5-inch (12.7 cm) minimum diameter impact face, and the hemispherical anvil shall be constructed of steel with a 1.9 inch (4.8 cm) radius impact face.

J. The rigid mount for both of the anvils shall consist of a solid mass of at least 300 pounds (136.1 kg), the outer surface of which shall consist of a steel plate with minimum thickness of 1 inch (2.5 cm) and minimum surface area of 1 ft5 (929 cm5 ).

K. The drop system shall restrict side movement during the impact attenuation test so that the sum of the areas bounded by the acceleration-time response curves for both the x- and y-axes (horizontal axes) shall be less than five percent of the area bounded by the acceleration-time response curve for the vertical axis.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§1117. Penetration Test**

A. The penetration test shall be conducted by dropping the penetration test striker in guided free fall, with its axis aligned vertically, onto the outer surface of the complete helmet, when mounted as specified in §1114, at any point above the test line, described in §1114.B except on a fastener or other rigid projection.

B. Two penetration blows shall be applied at least 3 inches (7.6 cm) apart, and at least 3 inches (7.6 cm) from the centers of any impacts applied during the impact attenuation test.

C. The application of the two penetration blows, specified in §1117.B, shall start at two minutes and be completed by four minutes, after removal of the helmet from the conditioning environment.

D. The height of the guided free fall shall be 118.1 inches (3 m), as measured from the striker point to the impact point on the outer surface of the test helmet.

E. The contactable surface of the penetration test headform shall be constructed of a metal or metallic alloy having a Brinell hardness number no greater than 55, which will permit ready detection should contact by the striker occur. The surface shall be refinished if necessary before each penetration test blow to permit detection of contact by the striker.

F. The weight of the penetration striker shall be 6 pounds, 10 ounces (3 kg).

G. The point of the striker shall have an included angle of 60E, a cone height of 1.5 inches (3.8 cm), a tip radius of 0.02 inch (standard 0.5 millimeter radius) and a minimum hardness of 60 Rockwell, AC@ scale.

H. The rigid mount for the penetration test headform shall be as described in §1116.J.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§1118. Retention System Test**

A. The retention system test shall be conducted by applying a static tensile load to the retention assembly of a complete helmet, which is mounted, as described in §1114, on a stationary test headform as shown in Figure 4, and by measuring the movement of the adjustable portion of the retention system test device under tension.

B. The retention system test device shall consist of both an adjustable loading mechanism by which a static tensile load can be applied to the helmet retention assembly as a means for holding the test headform and helmet stationary. The retention assembly shall be fastened around two freely moving rollers, both of which shall have a 0.5 inch (1.3 cm) diameter and a 3 inch (7.6 cm) center-to-center separation, and which shall be mounted on the adjustable portion of the tensile loading device (Figure 4). The helmet shall be fixed on the test headform as necessary to ensure that it will not move during the application of the test loads to the retention assembly.

C. A 50-pound (22.7 kg) preliminary test load shall be applied to the retention assembly, normal to the basic plane of the test headform and symmetrical with respect to the center of the retention assembly for 30 seconds, and the maximum distance from the extremity of the adjustable portion of the retention system test device to the apex of the helmet shall be measured.

D. An additional 250-pound (113.4 kg) test load shall be applied to the retention assembly, in the same manner and at the same location as described in §1118.C, for 120 seconds, and the maximum distance from the extremity of the adjustable portion of the retention system test device to the apex of the helmet shall be measured.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**Subchapter B. Motorcycle Goggles and Safety Glasses**

**§1119. Purposes and Scope**

A. Purpose. To provide manufacturers of motorcycle goggles and safety glasses with equipment approval guidelines for motorcyclist=s eye protection devices through the development of a regulation to provide a reasonable degree of protection against tearing and against foreign objects striking or lodging in the eye, causing eye irritation or damage, distracting or handicapping the operator, and thereby causing accidents.

B. Scope. The scope of this regulation shall include requirements for material, lens size, optical properties, strength, field of vision, flammability, cleaning capabilities, labeling, identification, and testing procedures for eye protection devices for drivers and passengers of motorcycles.

1. Windshields are the subject of other nationally recognized standards and shall not be included within the scope of this regulation.

2. Contact lenses are not acceptable as eye protection devices and shall not be included within the scope of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§1120. Definitions**

*EPD*Ceye protection devices.

*Eye Glasses*Cincludes devices such as spectacles or sunglasses worn before the eyes having two separately mounted lenses.

*Face Shield*Ca device attached to a helmet or head band(s) which covers the wearer=s eyes and face at least to a point approximately to the tip of the nose.

*Frame*Cthose parts of the eye glasses or goggles containing the lens housing. Padding may be associated with the frame.

*Goggles*Ca device worn before the eyes, the predominant function of which shall be to protect the eyes without obstructing peripheral vision. They shall provide protection from the front and sides and may or may not form a complete seal with the face.

*Headband*Cthat part of the device consisting of a supporting band or other structure that either encircles the head or protective helmet, or can be attached thereto.

*Mid-Signal Plane*Cthe anteroposterior plane through the longitudinal axis of the body.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§1121. Eye Protection Devices**

A. To be considered an EPD, under these regulations, a device must be one of the following:

1. goggles;
2. face shield;
3. eye glasses.
   a. Each lens shall have a convex frontal surface.
   b. Each lens shall have a minimum area of 3 square inches. The horizontal diameter (or side-to-side measurement) shall be no less than 2 inches. The vertical diameter (or top-to-bottom measurement) shall be no less

than 12 inches. A diameter shall pass through a point on the lens that is intended to be directly in front of the pupil of the eye when the wearer is looking straight ahead.

B. Optical correction of a person=s vision, where required or desired, may be provided either by:

1. An EPD that provides the proper optical correction, or

2. Personal corrective lenses worn under an EPD that does not disturb the adjustment of those lenses.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§1122. Materials**

A. All parts of an EPD shall be free from sharp edges or projections that could cause harm or discomfort to the wearer.

B. A headband shall be capable of holding the EPD securely under normal operating conditions. It shall be capable of easy adjustment and replacement.

C. Material(s) utilized in any portion of an EPD shall be of durable quality; i.e., material characteristics shall not undergo appreciable alterations under the influence of ageing or of the circumstances of use to which the device is normally subjected (exposure to rain, sun, cold, dust, vibrations, contact of the skin, effects of sweat, or of products applied to skin or hair).

D. Material(s) commonly known to cause skin irritation or disease shall not be used for those parts of the device which come into contact with the skin.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§1123. Optical Properties of Eye Protection Devices**

A. Lenses of EPD=S shall comply with the following requirements:

1. Lenses shall be made of material suitable for ophthalmic use, and shall be free from striae, waves, bubbles, or any other defects which may impair their optical quality.

2. The prismatic effect of a non-corrective lens shall not exceed C diopter at any point within the specified minimum field of vision. In the case of eye glasses, each non-corrective lens shall comply with the limitation of prismatic effect.

3. In any meridian, the refractive power of a non-corrective lens shall not exceed plus or minus 1/3 diopter and the difference between the refractive powers in any two meridians shall not exceed C diopter.

4. The definition afforded by a non-corrective lens shall be such that a line pattern with lines separated not more than 24 seconds of angle shall be clearly distinguishable when viewed through the lens.

B. The compliance of a lens with the prismatic effects, refractive power, and definition requirements §1123(A)(2),(3), and (4) herein above, shall be determined in accordance with those tests methods described in the American National Standards Institute Standard Z87.1-1989. In order to maintain consistency in the results of tests conducted by various organizations, the following test requirements must be met:

1. An 8-power telescope with focusing arrangement to accommodate the refractive effects of both positive (converging) and negative (diverging) lenses placed between the telescope and test chart shall be used. The illuminated target and test chart shall be a central dot and a concentric circle one inch in diameter plus one of the high contrast (Ablack and white@) NBS resolution Test Charts dated 1952 and printed on ALens Resolution Charts to Accompany NBS Circular 374.@ The chart shall be perpendicularly aligned 35 feet from the objective lens of the telescope when the telescope is properly focused with no test, sample, or other lens between the objective lens and the chart. The center dot and the periphery of the concentric circle one inch in diameter shall be used when testing for prismatic effect. The test pattern marked A20@ shall be used when testing for refractive power and when testing for definition. Standard lenses of plus or minus 1/8 diopter shall be used when testing for refractive power.

2. Other standard methods of testing that are equivalent or superior, as regards to accuracy, quality and consistency of results, to the above specified National Bureau of Standards methods, may be used to determine compliance only when such methods are approved by the Deputy Secretary, Department of Public Safety and Corrections, Public Safety Services.

C. Minimum Horizontal Field of Vision - Except as provided in §1123.C.1 below, each EPD shall not obstruct a horizontal field of vision to at least 105 degrees to the right side of the sagital plane that passes through the pupil of the right eye, and at least 105 degrees to the left side of the sagital plane that passes the pupil of the left eye.

1. The specified minimum horizontal field of vision shall be unobstructed except that the horizontal field provided by spectacles or sunglasses may be obstructed by the frame in a sector no greater than 72 degrees in horizontal angular width and located between 50 degrees and 80 degrees of the pertinent sagital plane passing through the eye pupil.

2. When ascertaining the horizontal filed of vision afforded by eye glasses, the pupil of the eye shall be assumed to be located 17 millimeters behind the point on the rear surface of the lens where the horizontal and vertical diameters intersect. When ascertaining the horizontal field of vision of EPD=s other than eye glasses, the assumed location of the pupil of the eye relative to the structures of the EPD shall be that location which is most likely to occur when the EPD is attached and worn in accordance with the manufacturer=s instructions.

3. No portion of the minimum horizontal field of vision shall be obstructed by a temple piece, headband, helmet, helmet attaching device, or any other supporting attaching device.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§1124. Light Transmittance of Eye Protection Devices**

A. Clear. A clear EPD is a device which transmits not less than 85% of the incident visible radiation.

B. Tinted. A tinted EPD is a device which transmits less than 85% of the incident visible radiation but no less than 20%.

1. A tinted EPD shall not impair the wearer=s ability to discern color.

2. A tinted EPD shall not be used at night.

C. Luminous Transmittance test

1. Clear EPD. The standard source of all radiant energy used in the measurement of luminous transmittance shall be a projection-type No. T-8 (or other high-powered gas filled tungsten filament incandescent lamp) operated at the color temperature corresponding to CIE Source A.

2. Tinted EPD. The standard source of all radiant energy used in the measurement of luminous transmittance for tinted EPD=s shall be CIE source C.

D. The luminous transmittance of both clear and tinted EPD=s shall be determined by one of the following means and by utilizing the applicable light source.

1. Photometrically by an observer having normal color vision, as determined by recognized color vision chart tests such as those employing pseudo-isochromatic plates.

2. With a physical photometer consisting of a thermopile (or other radiometer) and a luminosity solution having a special transmittance curve which coincides closely with the luminous efficiency curve of the average eye.

3. By measuring the spectral transmittance and calculating the luminous transmittance through the use of published data on the spectral radiant energy of CIE Source A for clear EPD=s and CIE Source C for tinted EPD=s and the relative luminous efficiency of the average eye.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

### §1125. Lens Strength-Testing Procedure For Eye Protection Devices

A. Helmet mounted face shields shall be tested while attached to a helmet and mounted on a human head form as herein defined. An EPD not designed to be attached to a helmet shall be tested on the same type of head form and shall be located in a position simulating its position in actual use.

B. The human head form used for testing both the helmet mounted face shield and the other EPD=s herein defined shall be an AAnthropomorphic Head Assembly SA 150 M010" as defined in the National Highway Traffic Safety Administration=s Standard 572, AAnthropomorphic Test Dummies.@ The head form needs to have only those features necessary to test EPD=s which shall include size, facial features, and covering material.

C. A steel projectile 3/8" in diameter, weighing 1.56 ounces, approximately 2 ½" long with a conical point of 90E included angle, the point having a spherical radius no greater than .020" and a hardness of 60 ( " 10) on the Rockwell AC@ scale, shall be freely dropped from a height of 14 feet above the EPD. The projectile may be guided, but not restricted, in its vertical fall by dropping it through a tube extending to within approximately 4" of the impact area. The impact area must be on the forward optical surface and within a 1" diameter circle centered over the eye opening. The impact point shall be perpendicular to a plane tangent to the impact area.

D. Cracking and piercing of the EPD is permissible provided that the projectile does not pass through or remain lodged in the lens, but is repulsed by the EPD. No lens shall become dislodged nor shall any particles of the EPD break loose from any eyeward surface of the EPD.

E. Tests shall be performed at EPD temperatures of 0E and 110EF. Tests shall be performed at 10% and 90% relative humidities for all temperatures in excess 70EF. The EPD shall be conditioned in the specified environment for a minimum of 4 hours, removed, and tested within 5 seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

### §1126. Flammability Test - Plastics Only

A. Where plastic materials are used in an EPD, such materials shall be non-combustible or slow-burning. Such plastic items shall be exposed to a test to determine the flame-propagation rate. The specimen shall be ignited by holding one end of specimen horizontally at the top of a luminous : " Bunsen burner flame in a draft-free room. The rate of propagation of burning, after removing the flame from the specimen, determined by a stop watch shall be 1" or less per 20 seconds. A faster rate of propagation shall be cause for rejection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

### §1127. Care and Cleansing

A. All EPD materials shall be such as to withstand, without visible deterioration, washing in ordinary household detergents and warm water, and rinsing to remove visible traces of detergents. The manufacturer shall provide with each EPD a notice setting forth proper care and cleansing instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

### §1128. Identification and Labeling

A. Eye protection devices, manufactured to comply with the requirements of these regulations, shall be identified and labeled as follows.

1. The following information shall be permanently marked on the structure and on each lens of the EPD in a manner not to interfere with the vision of the wearer:

a. that the device meets §1125 of these regulations;

b. the manufacturer=s or distributor=s trade name and model name or number, which shall correspond with the name and number under which the device has been approved or certified. On the lens itself, the manufacturer=s identifying monogram or symbol shall be sufficient;

c. on an tinted EPD, the wording "day use only" shall appear.

B. The information required under §1128.A.1 plus the corporate or business name and address of either the actual manufacturer or marketer assuming the responsibilities of the manufacturer shall be imprinted on the container in which the EPD is packed and on any instruction sheet(s) pertaining to the EPD.

C.. The following statement shall appear in a prominent location on the container or label accompanying each tinted eye protection device: The tinted eye protection device is for daytime use only. Words of equivalent meaning may be substituted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

## §1131. Appendices

A. Table 1. Weights for Impact Attenuation Test Drop Assembly

| Test Headform Size | Weight[1] -1b(kg) |
|---|---|
| Small | 7.8 (3.5 kg). |
| Medium | 11.0 (5.0 kg). |
| Large | 13.4 (6.1 kg). |

[1] Combined weight of instrumented test headform and supporting assembly for drop test.

B. Figure 1. Basic Plane

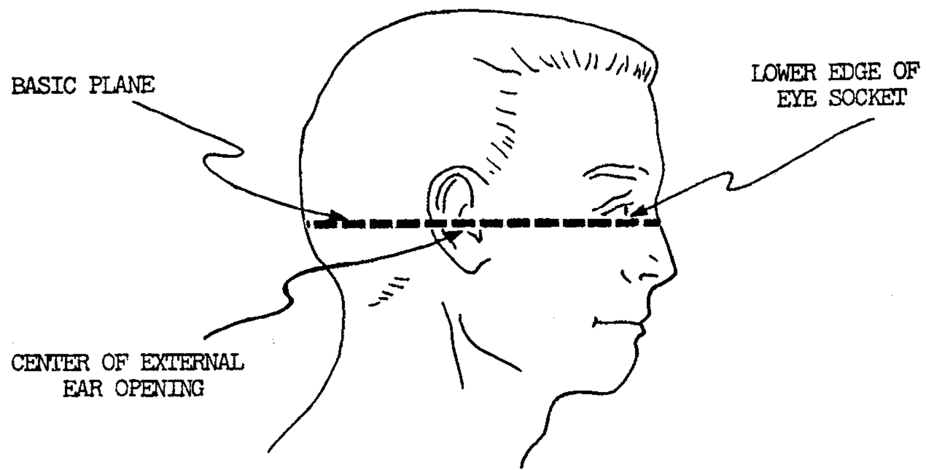
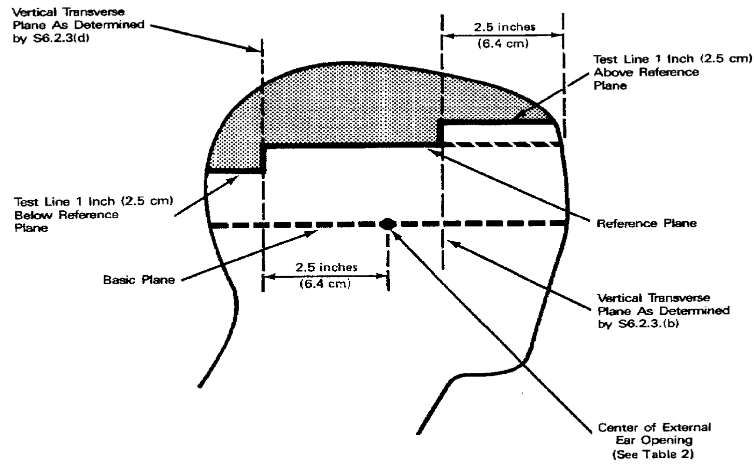



Figure 1

C. Figure 2. Test Form

§ 571.218 49 CFR Ch. V (10-1-97 Edition)




Note: Solid lines would correspond to the test line on a test helmet.

Test Surface

Figure 2

D. Figure 3. Mid-Sagittal Plane

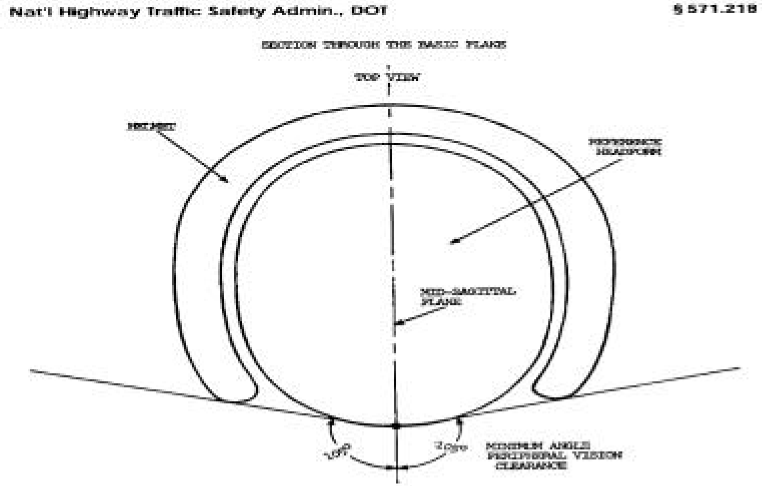



Figure 3

E. Figure 4. Test Headform

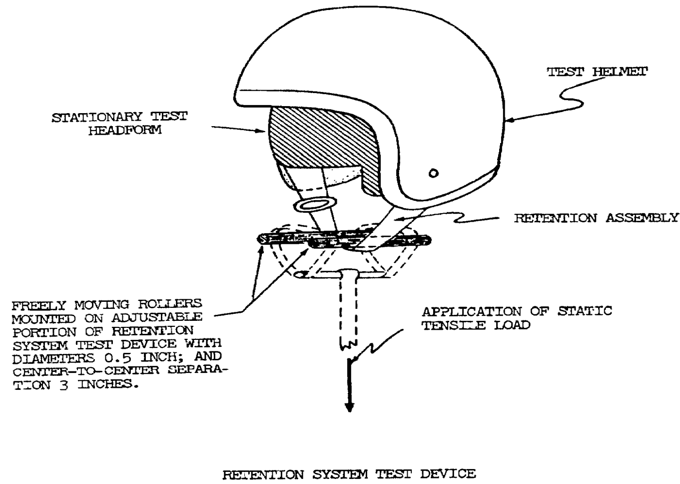
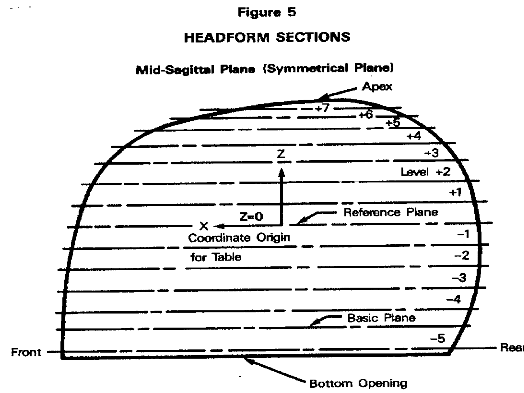
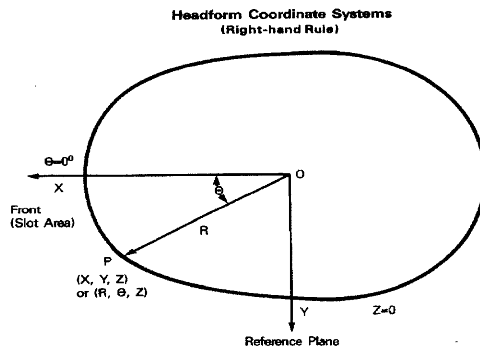


Figure 4

F. Figure 5. Headform Sections

Nat'l Highway Traffic Safety Admin., DOT §571.218



G Table 2. Medium Headform - Exterior Dimensions



**Table 2**

**Medium Headform — Exterior Dimensions**

| | Bottom Opening Z= −3.02 | | | Level—5 Z= −2.900 | | |
|---|---|---|---|---|---|---|
| θ | R | X | Y | R | X | Y |
| 0 | 4.292 | 4.292 | 0 | 4.293 | 4.293 | 0 |
| 10 | 4.266 | 4.201 | 0.741 | 4.270 | 4.206 | 0.742 |
| 20 | 4.159 | 3.908 | 1.423 | 4.172 | 3.920 | 1.427 |
| 30 | 3.967 | 3.436 | 1.984 | 3.961 | 3.430 | 1.981 |
| 40 | 3.660 | 2.804 | 2.353 | 3.670 | 2.811 | 2.359 |
| 50 | 3.332 | 2.142 | 2.553 | 3.352 | 2.165 | 2.568 |
| 60 | 3.039 | 1.520 | 2.632 | 3.067 | 1.534 | 2.656 |
| 70 | 2.839 | 0.971 | 2.668 | 2.869 | 0.981 | 2.696 |
| 80 | 2.720 | 0.472 | 2.679 | 2.772 | 0.481 | 2.730 |
| 90 | 2.675 | 0 | 2.675 | 2.709 | 0 | 2.709 |
| 100 | 2.703 | −0.469 | 2.662 | 2.724 | −0.473 | 2.683 |
| 110 | 2.764 | −0.945 | 2.597 | 2.794 | −0.956 | 2.626 |
| 120 | 2.888 | −1.444 | 2.501 | 2.917 | −1.469 | 2.526 |
| 130 | 2.986 | −1.919 | 2.287 | 3.040 | −1.954 | 2.329 |
| 140 | 3.100 | −2.375 | 1.993 | 3.175 | −2.432 | 2.041 |
| 150 | 3.175 | −2.750 | 1.588 | 3.232 | −2.799 | 1.616 |
| 160 | 3.186 | −2.994 | 1.090 | 3.246 | −3.050 | 1.110 |
| 170 | 3.177 | −3.129 | 0.552 | 3.237 | −3.188 | 0.562 |
| 180 | 3.187 | −3.187 | 0 | 3.246 | −3.246 | 0 |

| | Basic Plane Z= −2.360 | | | Level—4 Z= −2.000 | | |
|---|---|---|---|---|---|---|
| θ | R | X | Y | R | X | Y |
| 0 | 4.272 | 4.272 | 0 | 4.247 | 4.247 | 0 |
| 10 | 4.248 | 4.184 | 0.738 | 4.223 | 4.159 | 0.733 |
| 20 | 4.147 | 3.897 | 1.418 | 4.120 | 3.872 | 1.409 |
| 30 | 3.961 | 3.430 | 1.981 | 3.940 | 3.412 | 1.970 |
| 40 | 3.687 | 2.824 | 2.370 | 3.683 | 2.821 | 2.367 |
| 50 | 3.384 | 2.175 | 2.592 | 3.392 | 2.180 | 2.598 |
| 60 | 3.111 | 1.556 | 2.694 | 3.132 | 1.566 | 2.712 |
| 70 | 2.927 | 1.001 | 2.751 | 2.960 | 1.012 | 2.782 |
| 80 | 2.815 | 0.489 | 2.772 | 2.860 | 0.497 | 2.817 |
| 90 | 2.779 | 0 | 2.779 | 2.838 | 0 | 2.838 |
| 100 | 2.802 | −0.487 | 2.759 | 2.861 | −0.497 | 2.818 |
| 110 | 2.887 | −0.987 | 2.713 | 2.958 | −1.012 | 2.780 |
| 120 | 3.019 | −1.510 | 2.615 | 3.098 | −1.549 | 2.683 |
| 130 | 3.180 | −2.044 | 2.436 | 3.260 | −2.096 | 2.497 |
| 140 | 3.306 | −2.533 | 2.125 | 3.405 | −2.608 | 2.189 |
| 150 | 3.398 | −2.943 | 1.699 | 3.516 | −3.045 | 1.758 |
| 160 | 3.458 | −3.250 | 1.183 | 3.685 | −3.369 | 1.226 |
| 170 | 3.475 | −3.422 | 0.603 | 3.612 | −3.557 | 0.627 |
| 180 | 3.472 | −3.472 | 0 | 3.609 | −3.609 | 0 |

H. Table 2. Medium Headform - Exterior Dimensions (Continued)



**Table 2**

**Medium Headform—Exterior Dimensions (Continued)**

| Θ | Level—3 Z= −1.500 | | | Level—2 Z= −1.000 | | |
|---|---|---|---|---|---|---|
| | R | X | Y | R | X | Y |
| 0 | 4.208 | 4.208 | 0 | 4.148 | 4.148 | 0 |
| 10 | 4.179 | 4.116 | 0.726 | 4.112 | 4.060 | 0.714 |
| 20 | 4.075 | 3.829 | 1.394 | 4.013 | 3.771 | 1.373 |
| 30 | 3.902 | 3.379 | 1.951 | 3.844 | 3.329 | 1.922 |
| 40 | 3.654 | 2.799 | 2.349 | 3.609 | 2.765 | 2.320 |
| 50 | 3.377 | 2.171 | 2.587 | 3.352 | 2.155 | 2.568 |
| 60 | 3.094 | 1.547 | 2.680 | 3.137 | 1.569 | 2.717 |
| 70 | 2.982 | 1.020 | 2.802 | 2.989 | 1.022 | 2.809 |
| 80 | 2.891 | 0.502 | 2.847 | 2.902 | 0.504 | 2.858 |
| 90 | 2.876 | 0 | 2.876 | 2.884 | 0 | 2.884 |
| 100 | 2.918 | −0.507 | 2.874 | 2.943 | −0.511 | 2.898 |
| 110 | 3.021 | −1.033 | 2.839 | 3.052 | −1.044 | 2.868 |
| 120 | 3.170 | −1.585 | 2.745 | 3.225 | −1.613 | 2.793 |
| 130 | 3.337 | −2.145 | 2.556 | 3.397 | −2.184 | 2.602 |
| 140 | 3.483 | −2.668 | 2.239 | 3.536 | −2.709 | 2.273 |
| 150 | 3.604 | −3.121 | 1.802 | 3.657 | −3.167 | 1.829 |
| 160 | 3.682 | −3.460 | 1.259 | 3.751 | −3.525 | 1.283 |
| 170 | 3.725 | −3.668 | 0.647 | 3.807 | −3.749 | 0.661 |
| 180 | 3.741 | −3.741 | 0 | 3.822 | −3.822 | 0 |

| Θ | Level—1 Z= −0.500 | | | Reference Plane Z=0.0 | | |
|---|---|---|---|---|---|---|
| | R | X | Y | R | X | Y |
| 0 | 4.067 | 4.067 | 0 | 3.971 | 3.971 | 0 |
| 10 | 4.033 | 3.972 | 0.700 | 3.935 | 3.875 | 0.683 |
| 20 | 3.944 | 3.706 | 1.349 | 3.853 | 3.621 | 1.318 |
| 30 | 3.777 | 3.271 | 1.889 | 3.701 | 3.205 | 1.851 |
| 40 | 3.552 | 2.721 | 2.283 | 3.491 | 2.674 | 2.244 |
| 50 | 3.323 | 2.136 | 2.546 | 3.279 | 2.108 | 2.512 |
| 60 | 3.126 | 1.563 | 2.707 | 3.101 | 1.551 | 2.686 |
| 70 | 2.987 | 1.022 | 2.807 | 2.979 | 1.019 | 2.799 |
| 80 | 2.912 | 0.506 | 2.868 | 2.910 | 0.505 | 2.866 |
| 90 | 2.893 | 0 | 2.893 | 2.890 | 0 | 2.890 |
| 100 | 2.895 | −0.503 | 2.851 | 2.945 | −0.511 | 2.900 |
| 110 | 3.064 | −1.048 | 2.879 | 3.062 | −1.047 | 2.877 |
| 120 | 3.231 | −1.616 | 2.798 | 3.228 | −1.614 | 2.796 |
| 130 | 3.411 | −2.193 | 2.613 | 3.413 | −2.194 | 2.615 |
| 140 | 3.560 | −2.727 | 2.288 | 3.563 | −2.729 | 2.290 |
| 150 | 3.682 | −3.189 | 1.841 | 3.681 | −3.188 | 1.841 |
| 160 | 3.783 | −3.556 | 1.294 | 3.773 | −3.546 | 1.290 |
| 170 | 3.886 | −3.826 | 0.675 | 3.832 | −3.774 | 0.665 |
| 180 | 3.857 | −3.857 | 0 | 3.844 | −3.844 | 0 |

I. Table 2. Medium Headform - Exterior Dimensions (Continued)



**Table 2**

**Medium Headform — Exterior Dimensions (Continued)**

| θ | Level+1 Z=0.500 | | | Level +2 Z=1.000 | | |
|---|---|---|---|---|---|---|
| | R | X | Y | R | X | Y |
| 0 | 3.830 | 3.830 | 0 | 3.665 | 3.665 | 0 |
| 10 | 3.801 | 3.743 | 0.660 | 3.613 | 3.558 | 0.627 |
| 20 | 3.725 | 3.500 | 1.274 | 3.554 | 3.340 | 1.216 |
| 30 | 3.587 | 3.106 | 1.794 | 3.436 | 2.976 | 1.718 |
| 40 | 3.399 | 2.604 | 2.185 | 3.271 | 2.506 | 2.103 |
| 50 | 3.205 | 2.060 | 2.455 | 3.102 | 1.994 | 2.376 |
| 60 | 3.044 | 1.522 | 2.636 | 2.959 | 1.480 | 2.563 |
| 70 | 2.927 | 1.001 | 2.751 | 2.854 | 0.976 | 2.682 |
| 80 | 2.861 | 0.497 | 2.818 | 2.792 | 0.485 | 2.750 |
| 90 | 2.855 | 0 | 2.855 | 2.783 | 0 | 2.783 |
| 100 | 2.897 | −0.503 | 2.853 | 2.832 | −0.492 | 2.789 |
| 110 | 3.007 | −1.029 | 2.826 | 2.938 | −1.005 | 2.761 |
| 120 | 3.176 | −1.588 | 2.751 | 3.102 | −1.551 | 2.686 |
| 130 | 3.372 | −2.168 | 2.583 | 3.294 | −2.117 | 2.523 |
| 140 | 3.520 | −2.697 | 2.263 | 3.450 | −2.643 | 2.218 |
| 150 | 3.643 | −3.155 | 1.822 | 3.564 | −3.087 | 1.782 |
| 160 | 3.728 | −3.503 | 1.275 | 3.637 | −3.418 | 1.244 |
| 170 | 3.777 | −3.720 | 0.656 | 3.675 | −3.619 | 0.638 |
| 180 | 3.782 | −3.782 | 0 | 3.670 | −3.670 | 0 |

| θ | Level +3 Z=1.460 | | | Level +4 Z=1.860 | | |
|---|---|---|---|---|---|---|
| | R | X | Y | R | X | Y |
| 0 | 3.419 | 3.419 | 0 | 3.061 | 3.061 | 0 |
| 10 | 3.382 | 3.331 | 0.587 | 3.035 | 2.989 | 0.527 |
| 20 | 3.299 | 3.100 | 1.128 | 2.966 | 2.787 | 1.014 |
| 30 | 3.197 | 2.769 | 1.599 | 2.872 | 2.487 | 1.436 |
| 40 | 3.052 | 2.338 | 1.962 | 2.754 | 2.110 | 1.770 |
| 50 | 2.911 | 1.871 | 2.230 | 2.642 | 1.698 | 2.024 |
| 60 | 2.786 | 1.393 | 2.413 | 2.522 | 1.261 | 2.184 |
| 70 | 2.700 | 0.924 | 2.537 | 2.477 | 0.847 | 2.328 |
| 80 | 2.647 | 0.460 | 2.607 | 2.442 | 0.424 | 2.405 |
| 90 | 2.636 | 0 | 2.636 | 2.442 | 0 | 2.442 |
| 100 | 2.691 | −0.467 | 2.650 | 2.492 | −0.433 | 2.454 |
| 110 | 2.796 | −0.956 | 2.627 | 2.599 | −0.889 | 2.442 |
| 120 | 2.961 | −1.481 | 2.564 | 2.758 | −1.379 | 2.389 |
| 130 | 3.147 | −2.023 | 2.411 | 2.936 | −1.887 | 2.249 |
| 140 | 3.301 | −2.529 | 2.122 | 3.081 | −2.360 | 1.980 |
| 150 | 3.408 | −2.951 | 1.704 | 3.176 | −2.751 | 1.588 |
| 160 | 3.479 | −3.269 | 1.190 | 3.230 | −3.036 | 1.105 |
| 170 | 3.514 | −3.461 | 0.610 | 3.270 | −3.220 | 0.568 |
| 180 | 3.502 | −3.502 | 0 | 3.271 | −3.271 | 0 |

J. Table 2. Medium Headform – Exterior Dimensions (Continued)



**Table 2**

**Medium Headform — Exterior Dimensions (Continued)**

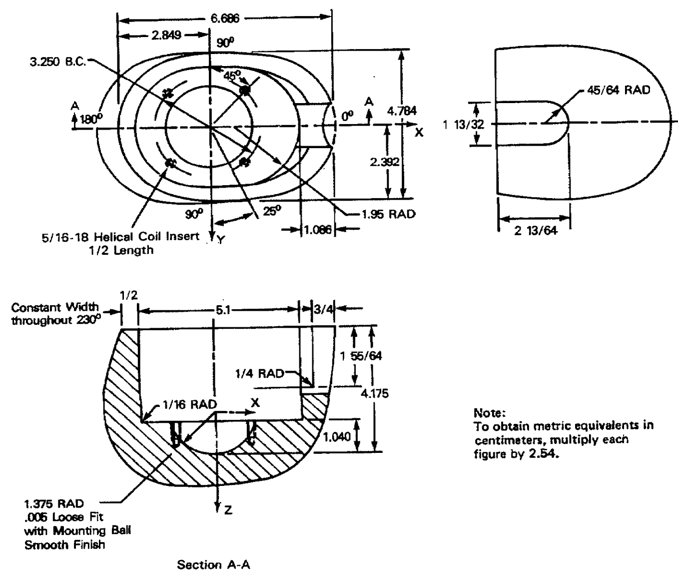
| Θ | Level +5 Z=2.250 | | | Level +6 Z=2.560 | | |
|---|---|---|---|---|---|---|
| | R | X | Y | R | X | Y |
| 0 | 2.526 | 2.526 | 0 | 1.798 | 1.798 | 0 |
| 10 | 2.521 | 2.483 | 0.483 | 1.798 | 1.771 | 0.312 |
| 20 | 2.464 | 2.315 | 0.843 | 1.757 | 1.651 | 0.601 |
| 30 | 2.387 | 2.067 | 1.194 | 1.719 | 1.489 | 0.860 |
| 40 | 2.305 | 1.766 | 1.482 | 1.678 | 1.285 | 1.079 |
| 50 | 2.232 | 1.435 | 1.710 | 1.652 | 1.062 | 1.266 |
| 60 | 2.174 | 1.087 | 1.883 | 1.641 | 0.821 | 1.421 |
| 70 | 2.144 | 0.733 | 2.015 | 1.645 | 0.563 | 1.546 |
| 80 | 2.132 | 0.370 | 2.100 | 1.673 | 0.291 | 1.648 |
| 90 | 2.147 | 0 | 2.147 | 1.712 | 0 | 1.712 |
| 100 | 2.213 | −0.384 | 2.179 | 1.809 | −0.314 | 1.782 |
| 110 | 2.316 | −0.792 | 2.176 | 1.925 | −0.668 | 1.809 |
| 120 | 2.463 | −1.232 | 2.133 | 2.066 | −1.033 | 1.789 |
| 130 | 2.624 | −1.687 | 2.010 | 2.213 | −1.423 | 1.695 |
| 140 | 2.763 | −2.117 | 1.776 | 2.358 | −1.806 | 1.516 |
| 150 | 2.863 | −2.479 | 1.432 | 2.469 | −2.138 | 1.235 |
| 160 | 2.919 | −2.743 | 0.988 | 2.536 | −2.383 | 0.867 |
| 170 | 2.954 | −2.909 | 0.513 | 2.561 | −2.522 | 0.445 |
| 180 | 2.958 | −2.958 | 0 | 2.556 | −2.556 | 0 |

| Θ | Level +7 Z=2.750 | | |
|---|---|---|---|
| | R | X | Y |
| 0 | 1.081 | 1.081 | 0 |
| 10 | 1.088 | 1.072 | 0.189 |
| 20 | 1.055 | 0.991 | 0.361 |
| 30 | 1.039 | 0.900 | 0.520 |
| 40 | 1.039 | 0.796 | 0.668 |
| 50 | 1.052 | 0.676 | 0.806 |
| 60 | 1.068 | 0.534 | 0.925 |
| 70 | 1.106 | 0.378 | 1.039 |
| 80 | 1.171 | 0.203 | 1.153 |
| 90 | 1.242 | 0 | 1.242 |
| 100 | 1.422 | −0.247 | 1.400 |
| 110 | 1.489 | −0.509 | 1.399 |
| 120 | 1.683 | −0.842 | 1.458 |
| 130 | 1.801 | −1.158 | 1.380 |
| 140 | 1.954 | −1.497 | 1.256 |
| 150 | 2.083 | −1.804 | 1.042 |
| 160 | 2.138 | −2.009 | 0.731 |
| 170 | 2.175 | −2.142 | 0.378 |
| 180 | 2.175 | −2.175 | 0 |

Notes:

1. Apex is located at (-0.75, 0, 3.02) for (X,Y,Z) or (0.75, 180, 3.02) for (R, Θ, Z).
2. Center of ear opening is located at (0.40, 2.78, -2.36) for (X,Y,Z) or (2.80, 81.8, -2.36) for (R,Θ,Z).
3. Scale all dimensions by 0.8941 for small headform.
4. Scale all dimensions by 1.069 for large headform.
5. Headform is symmetrical about the mid-sagittal plane.
6. Units:
   R,X,Y,Z – inches.
   Θ – degrees.
7. To obtain metric equivalents in centimeters, multiply each figure by 2.54.

K. Figure 6. Small Headform - Interior Design

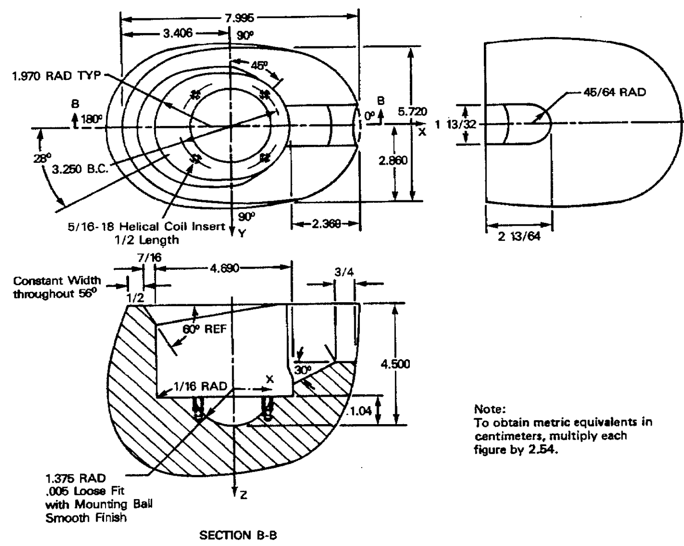


L. Figure 7. Medium Headform - Interior Design



Figure 7

Medium Headform — Interior Design

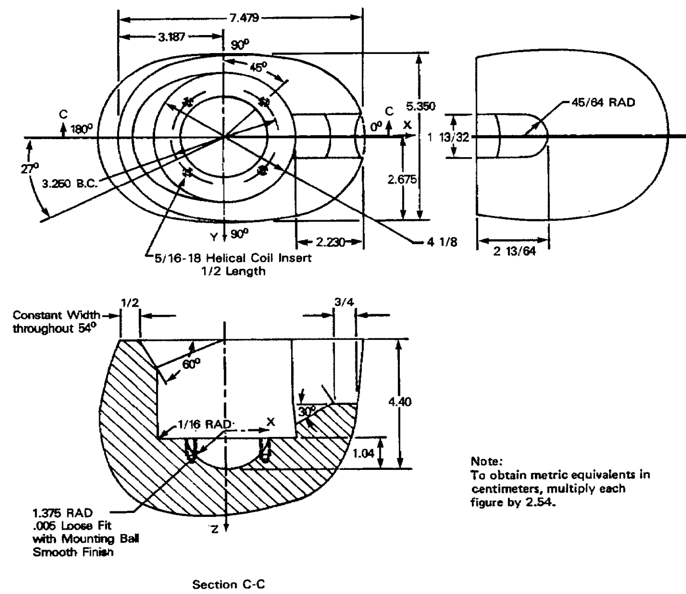


M. Figure 8. Large Headform - Interior Design

§ 571.218 49 CFR Ch. V (10-1-97 Edition)

**Figure 8**

**Large Headform — Interior Design**




Section C-C

[38 FR 22391, Aug. 20, 1973, as amended at 39 FR 3554, Jan. 28, 1974; 45 FR 15181, Mar. 10, 1980; 53 FR 11288, Apr. 6, 1988; 53 FR 12529, Apr. 15, 1988]

AUTHORITY NOTE: Promulgated in accordance with R.S.32:190.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

Jerry W. Jones
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Vehicle Safety Equipment**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no implementation costs or savings to the Department. The proposed new rules defines specifications and guidelines for the safe manufacture of motorcycle helmets and motorcycle goggles and safety glasses. The proposed new rules are necessary as a result of the passage of Act No. 404 of the 1999 Regular Legislative Session which requires promulgation of the Department's approved list of vehicle safety equipment as it relates to motorcycles.

The repeal to LAC 55 Part III, Chapter 11, Sections 1101-1105 are necessary is as a result of the Department adopting the federal guidelines for approved vehicle safety equipment for motorcycles which are currently mandated nationwide by the federal government. The existing regulations currently enumerated as LAC 55 Part III, Chapter 11, Sections 1101-1105 were promulgated prior to the enactment of the federal regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of the state, however, it is possible for local governments to raise money once these regulations are effective as law enforcement personnel could issue traffic citations to individuals driving motorcycles who utilize motorcycle helmets, goggles and safety glasses which do not meet the requirements contained in these regulations. The money generated from traffic citations generally benefits the jurisdiction where the citation was written.

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 and non-governmental groups as it relates to the program for which the proposed rules apply. This program is already in effect nationwide pursuant to federal regulations. The manufacturers of motorcycle helmets, motorcycle goggles and motorcycle safety glasses should already be following these same guidelines when producing these products. These same specifications and guidelines are simply now being promulgated as state administrative rules pursuant to Act No. 404 of the 1999 Regular Legislative Session.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment. The proposed rules simply promulgate state regulations which adopt federal regulations already in effect nationwide. Any manufacturers of motorcycle helmets, motorcycle goggles and motorcycle safety glasses should already be following these same guidelines when producing these products and should be able to continue to do so without any change in the number of individuals it employs.

| | |
|---|---|
| Jerry W. Jones | Robert E. Hosse |
| Undersecretary | General Government Section Director |
| 0010#098 | Legislative Fiscal Office |

**NOTICE OF INTENT**

**Department of Social Services**
**Office of Family Support**

Support Enforcement ServicesCTax Refund Offset
(LAC 67:III.2529 and 2531)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Subsequent to "welfare reform" changes in Public Law 104-193 (1996) and Public Law 105-33 (1997), child support collected through interception of a state tax refund must now be strictly distributed according to new federal guidelines. This distribution process begins with the current monthly support obligation on cases which formerly received financial assistance being paid to the family. Any remaining collection is paid to the family for past due support not previously assigned to the state and then to repayment of federal and state financial assistance. Therefore, it is necessary to revise and delete language in §2529 and §2531 since state tax refunds were previously used first to reimburse financial assistance programs.

**Title 67**
**SOCIAL SERVICES**
**Part III. Office of Family Support**
**Subpart 4. Support Enforcement Services**

**Chapter 25. Support Enforcement**
**Subchapter I. Tax Refund Offset**
**§2529. State Tax Refunds**

A. SES will request withholding of any state income tax refunds due to individuals who have child support arrearages in excess of $50. Support payments received through state tax intercept will be distributed in accordance with federal regulations.

B. SES will charge a $2.75 fee to non-FITAP custodial parents for each successful state tax refund offset of $4 or more. This fee will reimburse SES for intercept fees paid to the Department of Revenue and Taxation. The fee charged for the state tax offset will be deducted from the child support checks issued by SES. The noncustodial parent will be given credit for the amount of the check before the fee deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:299.1 et seq., 45 CFR 303.102, P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:916 (November 1984), amended by the Department of Social Services, Office of Family Support, LR 17:388 (April 1991), LR 27:

### §2531. Advance Notice of State Tax Refund Interception

A. SES will send an advance notice to each noncustodial parent owing past-due child support whose name is submitted for interception of state tax refund. This notice will advise the noncustodial parent of the right to administrative review if the state tax information is contested.

AUTHORITY NOTE: Promulgated in accordance 45 CFR 303.102, P.L.104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1152 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 27:

All interested persons may submit written comments through November 22, 2000 to Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

**Family Impact Statement**

I. What effect will this rule have on the stability of the family? The proposed rule will not affect the stability of the family.

II. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

III. What effect will this have on the functioning of the family? This rule will not affect the functioning of the family.

IV. What effect will this have on family earnings and family budget? This rule may improve the family budget of certain child support recipients as they may receive support which previously would have been applied to reimbursement.

V. What effect will this have on the behavior and personal responsibility of children? This rule will not affect the behavior or personal responsibility of children.

VI. Is the family or local government able to perform the function as contained in this proposed rule? SES is the sole state agency governing support collected through intercepts.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Support Enforcement ServicesC Tax Refund Offset**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only immediate cost to state government is the minimal cost of printing policy revisions, publishing the rule, and programming; these costs are routinely included in the agency's annual budget. No savings to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will result in a decrease in revenue (reimbursements) to Support Enforcement Services because collections from state tax refunds must now be paid first to the custodial family. Previously, 29.68% of this type of collection was used first as reimbursement to the state. This amount is estimated to be $65,524 per year in decreased revenue collections. There is no effect on revenue collections of any local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Families receiving child support services could benefit by receiving payments of current and/or past-due support prior to reimbursement to the state for previous assistance received. There is no cost to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
0010#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

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

Nonresident Hunting License Fees
(LAC 76:V.101 and 501)

The Wildlife and Fisheries Commission hereby advertises its intent to repeal LAC 76:V.101 relative to bow hunting licenses and to amend nonresident hunting fees as follows.

**Title 76**
**WILDLIFE AND FISHERIES**
**Part V. Wild Quadrupeds and Wild Birds**

### Chapter 1. Wild Quadrupeds

### §101. Bow Hunting License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:105.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:405 (October 1978), repealed LR 27:

### Chapter 5. Licenses and License Fees

### §501. Nonresident Hunting License Fees

The basic hunting license fee shall be $150 for the entire season or $100 for five consecutive days. The nonresident big game license fee shall be $150 for the entire season or $75 for five consecutive days. A fee of $26 shall be charged a nonresident for the issuance of a special muzzleloader license; and a fee of $26 shall be charged a nonresident for a special bow license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Janis Landry, Licensing Manager, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898 prior to Wednesday, December 6, 2000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Nonresident Hunting License Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this rule will result in minimal cost for programming the affected license fees into the automated license system; this cost is estimated to be about $3,800 and it will be absorbed by the existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will result in a possible increase in revenue of about $90,000 to the state (Department of Wildlife and Fisheries). The reduction in fees may cause an increase in the number of licenses sold resulting in additional revenue to the department and in economic benefits to the state in the form of sales taxes from the recreational activities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Nonresidents purchasing these licenses will pay a lesser amount for them.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

| | |
|---|---|
| James L. Patton | Robert E. Hosse |
| Undersecretary | General Government Section Director |
| 0010#044 | Legislative Fiscal Office |

## NOTICE OF INTENT

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

Three Day Basic and Saltwater Nonresident Recreational Fishing License Fees (LAC 76:VII.407)

The Wildlife and Fisheries Commission hereby advertises its intent to set a $15 fee on a Louisiana nonresident three-day trip basic recreational sport fishing license, by repealing LAC 76:VII.407.D and amending LAC 76:VII.407.A as follows.

**Title 76**
**WILDLIFE AND FISHERIES**
**Part VII. Fish and Other Aquatic Life**
**Chapter 4. License and License Fees**
**§407. Three-Day Basic and Saltwater Nonresident Recreational Fishing License Fees**

A. In lieu of the basic recreational fishing license, a nonresident may purchase a three-day basic recreational sport fishing license for a fee of $15 which shall be valid for three consecutive days.

B. - C. …

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:710 (April 1998), amended LR 27:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Janis Landry, License Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Wednesday, December 6, 2000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Three-Day Basic and Saltwater Nonresident Recreational Fishing License Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this rule will result in minimal costs for programming the affected license fees into the automated license system; this cost is estimated to be about $3800 and it will be absorbed by existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will result in a possible decrease in revenue of about $312,000 to the state (Department of Wildlife and Fisheries). Even though more licenses may be sold, we project a net decrease to revenue due to the absolute reduction to license price.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Nonresidents purchasing these licenses will pay a lesser amount for them.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

| | |
|---|---|
| James L. Patton | H. Gordon Monk |
| Undersecretary | Staff Director |
| 0010#043 | Legislative Fiscal Office |

# Administrative Code Update

## CUMULATIVE: JANUARY – SEPTEMBER 2000

| LAC Title | Part.Section | Effect | Location LR 26 Month | Page |
|---|---|---|---|---|
| 4 | III.Chapter 1 | Amended | May | 1025 |
| | VII.1121-1143 | Amended | Jan | 70 |
| | VII.1271-1275 | Amended | Jan | 79 |
| | VII.913, 915 | Repealed | July | 1442 |
| | VII.1301-1323 | Amended | Aug | 1610 |
| | IX.1103, 1303, 1907, 2001 | Repealed | Sept | 2006 |
| 7 | XIII.143, 147 | Amended | Feb | 235 |
| | XIII.222 | Amended | July | 1428 |
| | XXI.Chapter 23 | Amended | Aug | 1567 |
| | XXIII.143 | Amended | Aug | 1428 |
| | XXIII.145 | Amended | Sept | 1964 |
| | XXIX.102, 117, and 121 | Amended | April | 627 |
| | XXXIX.111 | Repealed | Jan | 25 |
| | XXXIX.111 | Adopted | Jan | 25 |
| 10 | XI.701, 703 | Adopted | Sept | 1991 |
| | XV.505 | Adopted | May | 990 |
| | XVII.701 | Adopted | Feb | 236 |
| 13 | I.Chapter 3 | Amended | April | 630 |
| | I.Chapter 9 | Amended | April | 631 |
| | I.Chapter 27 | Repealed | July | 1429 |
| | I.Chapter 29 | Repealed | July | 1430 |
| | III.Chapter 1 | Amended | Feb | 236 |
| | III.Chapter 3 | Amended | Feb | 241 |
| | III.Chapter 5 | Amended | Feb | 239 |
| | III.Chapter 13 | Repealed | April | 629 |
| | VII | Repealed | July | 1429 |
| 19 | I.Chapters 1-13 | Amended | Aug | 1572 |
| 22 | I.Chapter 2 | Adopted | June | 1310 |
| | I.203 | Amended | April | 1308 |
| | I.317 | Repealed | Jun | 1313 |
| | I.317 | Adopted | June | 1313 |
| | I.337 | Amended | Feb | 332 |
| | I.Chapter 21 | Adopted | Feb | 331 |
| | III.Chapter 57 | Adopted | May | 1018 |
| | V.109 | Amended | Jan | 88 |
| | XIII.503 | Amended | May | 1019 |
| 25 | IX.303-310, 312, 330, 331, | Amended | Jan | 25 |
| | IX.501-507 | Amended | Jan | 25 |
| 28 | I.901 | Amended | Aug | 1575 |
| | I.901 | Amended | July | 1430 |
| | I.901 | Amended | July | 1431 |
| | I.901 | Amended | July | 1432 |
| | I.901 | Amended | June | 1260 |
| | I.901 | Amended | June | 1260 |
| | I.901 | Amended | Feb | 224 |
| | I.901 | Amended | April | 635 |
| | I.901 | Amended | April | 635 |
| | I.901 | Amended | April | 638 |
| | I.901 | Amended | Mar | 458 |
| | I.901 | Amended | Feb | 246 |
| | I.901 | Amended | Feb | 246 |
| | I.901 | Amended | Feb | 247 |
| | I.901, 902 | Amended | Mar | 458 |
| | I.901, 903 | Amended | Jan | 62 |
| | I.903 | Amended | Jan | 62 |
| | I.903 | Amended | Mar | 459 |
| | I.904 | Amended | Mar | 459 |
| | I.921 | Amended | Feb | 249 |
| | I.943 | Amended | Sept | 1599 |
| | IV.301 | Amended | Aug | 1601 |
| | IV.301, 501, 503, 509, 701, 703, | Amended | Sept | 1993 |
| | IV.301, 509, 701, 703, 705, 805 | Amended | Sept | 1999 |
| | IV.703, 803 | Amended | Aug | 1602 |
| | IV.703 | Amended | Sept | 1998 |

| LAC Title | Part.Section | Effect | Location LR 26 Month | Page |
|---|---|---|---|---|
| 28 | IV.705, 801, 803, 805, 1701, 1901 | Amended | Sept | 1993 |
| | IV.911, 2105 | Amended | Aug | 1603 |
| | IV.1903, 2107 | Amended | Sept | 1993 |
| | IV.1903, 2103 | Amended | Sept | 1999 |
| | V.101, 103 | Amended | Sept | 1993 |
| | V.109 | Amended | Mar | 484 |
| | IV.301, 701 | Amended | June | 1262 |
| | IV.703 | Amended | June | 1263 |
| | IV.2109 | Amended | June | 1261 |
| | IV.103, 301 | Amended | Jan | 65 |
| | IV.701-705 | Amended | Jan | 65 |
| | IV.703 | Amended | April | 689 |
| | IV.703, 803 | Amended | Jan | 64 |
| | IV.803, 805 | Amended | Jan | 65 |
| | IV.901, 909, 911 | Amended | Jan | 69 |
| | IV.903 | Amended | Jan | 65 |
| | IV.1701 | Amended | Jan | 65 |
| | IV.2101 | Amended | Jan | 65 |
| | IV.2103 | Amended | May | 1015 |
| | XXV.303 | Amended | April | 635 |
| | XXXIII.Chapter 1-3 | Amened | May | 991 |
| | XXXIX.307 | Amended | Jan | 64 |
| | XXXIX.503 | Amended | Aug | 1575 |
| | XXXIX.503, 505 | Amended | July | 1432 |
| | XLIII.Chapters 1-10 | Adopted | April | 639 |
| | XLIII.Chapters 11-20 | Adopted | Aug | 1576 |
| | XLV.Chapters 1-11 | Adopted | Mar | 461 |
| 32 | III.317, 701 | Amended | Mar | 488 |
| | V.317, 701 | Amended | Mar | 487 |
| 33 | I.2501-2505 | Adopted | Aug | 1603 |
| | I.1305 and 1307 | Amended | June | 1264 |
| | I.4501, 4503, 4701-4707 | | | |
| | I.4711,4717, 4719, 4901 | | | |
| | III.207, 209, 211, 223 | Amended | Feb | 263 |
| | III.207, 209, 211, 223 | Repromulgated | Mar | 484 |
| | III.223 | Amended | Aug | 1605 |
| | III.223, 1951-1973 | Amended | Mar | 485 |
| | III.1901-1935 | Repealed | Aug | 1605 |
| | III.2121 | Amended | July | 1433 |
| | III.3003 | Amended | Aug | 1607 |
| | III.5122 | Amended | April | 690 |
| | III.613, 615 | Amended | Mar | 486 |
| | III.2107 | Amended | July | 1442 |
| | III.5901 | Amended | Jan | 69 |
| | V.Chapters 1,3,5,15,17,22 | Amended | Feb | 267 |
| | V.517 | Repromulgated | Aug | 1608 |
| | V.Chapters 26,33,38,41,43 | Amended | Feb | 267 |
| | IX.Chapter 1 | Adopted | Jan | 33 |
| | IX.1701 | Amended | June | 1270 |
| | IX.2301, 2531, 2533 | Amended | Aug | 1601 |
| | XV.325, 342 and 478 | Amended | May | 1017 |
| | XV.Chapter 15 | Amended | June | 1264 |
| 34 | I.307 | Amended | Sept | 2005 |
| | III.Chapter 5 | Amended | May | 1020 |
| 35 | I.1750 | Adopted | Sept | 1992 |
| | XIII.Chapter 119 | Adopted | May | 990 |
| 37 | XI.Chapter 23 | Adopted | Feb | 323 |
| | XIII.Chapter 60 | Adopted | Sept | 2006 |
| | XIII.8705, 8709 | Amended | Jan | 86 |
| | XIII.8713-8717 and 8721 | Amended | Jan | 86 |
| | XIII.8723, 8725 and 8727 | Adopted | Jan | 86 |
| | XIII.8729 and 8731 | Amended | Jan | 86 |
| | XIII.Chapter 89 | Adopted | June | 1300 |
| | XIII.Chapter 89 | Repromulgated | July | 1482 |
| | XIII.Chapter 90 | Adopted | Mar | 500 |
| | XIII.Chapter 91 | Adopted | Feb | 324 |

| LAC Title | Part.Section | Effect | Location LR 26 Month | Page |
|---|---|---|---|---|
| **40** | XVI.101, 105, 107, 109, 111 | Amended | Aug | 1629 |
| **42** | II.Chapters 1 and 2 | Adopted | Mar | 502 |
| | III.119, 120 | Adopted | Feb | 339 |
| | VII.Chapter 17, 21-29 and 42 | Adopted | April | 728 |
| | VII.2325 | Adopted | June | 1324 |
| | IX.2405 | Amended | Feb | 339 |
| | IX.2919-2924 | Adopted | Feb | 335 |
| | XI.2415 | Amended | June | 1321 |
| | XIII.2331 | Adopted | Feb | 339 |
| | XIII.2724, 2737, 2744, | Repealed | Feb | 334 |
| | XIII.2745, 2747 | Repealed | Feb | 334 |
| | XIII.4001-4013 | Adopted | Feb | 335 |
| | XIII.Chapter 42 | Adopted | April | 716 |
| | XV.Chapter 1 | Amended | April | 703 |
| | XV.Chapter 1 | Amended | Aug | 1631 |
| | XV.Chapter 3 | Repromulgated | April | 705 |
| | XV.Chpater 5 | Repromulgated | April | 709 |
| | XV.Chapter 7 | Repromulgated | April | 699 |
| | XV.Chapter 9 | Amended | April | 703 |
| **43** | I.875-895 | Adopted | July | 1483 |
| | V.Chapters 1 and 3 | Adopted | May | 1060 |
| | XIX.104 | Amended | June | 1306 |
| **46** | I.Chapter 19 | Adopted | May | 988 |
| | I.Chapter 19 | Repealed | May | 988 |
| | XIX.Chapters 1-21 | Amended | Sept | 1966 |
| | XXV.Chapters 1-7 | Adopted | Feb | 295 |
| | XXXIII.103, 1508, 1603, 1611 | Amended | Mar | 488 |
| | XXXIII.105, 116, 120, 306, 502 | Amended | Aug | 1612 |
| | XXXIII.503, 706, 710, 1305, | Amended | Aug | 1612 |
| | XXXIII.1607, 1619 | Amended | Aug | 1612 |
| | XXXIII.1613, 1617 | Amended | Mar | 488 |
| | XLVII.3330 | Adopted | Aug | 1614 |
| | XLVII.333, 3337 | Amended | July | 1443 |
| | XLIX.1103 | Amended | Feb | 316 |
| | LIII.Chapter 12 | Adopted | April | 1271 |
| | LIV.Chapters 1 and 3 | Amended | July | 1443 |
| | LV.101, 303, 307, 801, 901 | Amended | Feb | 328 |
| | LV.309 | Amended | Feb | 327 |
| | LV.311 | Amended | Feb | 328 |
| | LVII.927 | Adopted | April | 1307 |
| | LIX.101-107, 201, 301, 401-409 | Amended | May | 1067 |
| | LIX.501, 601, 603, 701, 801-813 | Amended | May | 1067 |
| | LIX.901-907 | Amended | May | 1067 |
| | LX.111, 503, 705, 801, 803 | Amended | Mar | 493 |
| | LX.1305, 1325, 2107 | Amended | Mar | 493 |
| | LXVII.Chapters 1-69 | Repealed | Jan | 37 |
| | LXVII.Chapters 1-69 | Adopted | Jan | 37 |
| | LXXVI.Chapter 1 | Adopted | May | 1064 |
| | LXXXV.305 | Amended | Feb | 322 |
| | LXXXV.704 | Amended | Feb | 317 |
| | LXXXV.Chapter 12 | Amended | Feb | 317 |
| | XXXIII.301 | Amended | April | 690 |
| | XXXIII.306 | Amended | April | 692 |
| | XXXIII.415 | Amended | April | 692 |
| | XXXIII.506 | Repealed | April | 691 |
| | XXXIII.706 | Amended | April | 692 |
| | XLVII.3335 | Amended | Jan | 83 |
| | XLVII.3341 | Amended | Jan | 83 |
| | XLVII.3403, | Amended | Aug | 1614 |
| | XLVII.3404 | Repealed | Aug | 1614 |
| | XLVII.3505 | Amended | Jan | 83 |
| | XLIX.1103 | Repromulgated | Jan | 82 |
| | XLV.6915-6923 | Amended | April | 693 |
| | XLVII.3305 | Amended | Aug | 1615 |
| | XLIX.307 | Amended | April | 692 |
| | LIII.3517 | Adopted | Aug | 1615 |
| | LXXXV.809, 811 | Amended | Jan | 84 |
| | LXXXV.Chapter 15 | Adopted | Mar | 489 |
| **48** | I.3991 | Adopted | May | 1058 |
| | I.4001-4011 | Amended | July | 1478 |

| LAC Title | Part.Section | Effect | Location LR 26 Month | Page |
|---|---|---|---|---|
| **48** | I.5369 | Repromulgated | Sept | 2010 |
| | I.Chapter 53 | Amended | Aug | 1635 |
| | I.Chapter 74 | Amended | July | 1450 |
| | I.7601, 7609 | Amended | July | 1480 |
| | V.11709 | Adopted | April | 1298 |
| **50** | I.Chapter 55 | Amended | July | 1448 |
| **52** | I.610, 1012, 1202, 1204, 1309 | Adopted | April | 627 |
| | I.1310, 1604, 1903 and 1905 | Adopted | April | 627 |
| | I.1609 | Adopted | July | 1429 |
| **55** | I.301 | Amended | Jan | 95 |
| | I.1903, 1907, 1909, 1917, 1921 | Amended | Feb | 347 |
| | I.1933, 1939, 1941, 1945, | Amended | Feb | 347 |
| | I.1949, 1969 | Amended | Feb | 347 |
| | I.Chapter 15 | Amended | Jan | 90 |
| | I.Chapter 21 | Adopted | Jan | 92 |
| | III.118, 135, | Amended | Aug | 1632 |
| | III.138, 141 | Repealed | Aug | 1632 |
| | III.325, 327 | Adopted | Jan | 89 |
| | III.1777, 1781 | Amended | Jan | 88 |
| | III.1929 | Adopted | Aug | 1633 |
| | V.521, 535, 543 | Amended | Sept | 2009 |
| | V.1305 | Adopted | Feb | 294 |
| | V.Chapter 30 | Amended | June | 1324 |
| | IX.107, 201, 203, 205, 207 | Amended | July | 1487 |
| **58** | I.503, 701, 2513, 2903, | Amended | July | 1490 |
| | I.3101-3115, 3501-3519 | Amended | July | 1490 |
| | V.1501 | Amended | Feb | 290 |
| | V.1503 | Amended | Feb | 290 |
| | V.1505 | Amended | Feb | 291 |
| | V.1507 | Amended | Feb | 294 |
| | V.1509 | Amended | Feb | 294 |
| **61** | I.4909 | Adopted | Jan | 95 |
| | V.101, 303, 703, 907, 1103, 1305 | Amended | Mar | 506 |
| | V.1307, 1503, 2503, 2703-2707 | Amended | Mar | 506 |
| | V.3101-3105, 3501 | Amended | Mar | 506 |
| **67** | III.301, 307, 309 | Amended | Feb | 350 |
| | III.1203, 1209, 1247 | Amended | Feb | 349 |
| | III.1223, 1225 and 1229 | Amended | June | 1342 |
| | III.1987 | Amended | Feb | 349 |
| | III.2013, 2015 | Amended | Aug | 1633 |
| | III.2509 | Amended | Feb | 356 |
| | III.2907, 2909 and 2913 | Amended | June | 1342 |
| | III.2521 | Amended | June | 1344 |
| | III.Chapter 53 | Adopted | Feb | 351 |
| | V.1103 | Amended | April | 790 |
| | V.1105 | Adopted | Jan | 96 |
| | V.3503 | Amended | June | 1341 |
| | VII.Chapter 13 | Amended | July | 1488 |
| **70** | I.513 | Amended | Jan | 97 |
| | III.Chapter 7 | Amended | Aug | 1644 |
| **73** | III.301 | Amended | Feb | 357 |
| | III.Chapter 27 | Adopted | April | 790 |
| **76** | I.327 | Amended | May | 1078 |
| | V.109 | Repealed | Sept | 2010 |
| | V.111 | Amended | Sept | 2010 |
| | V.119 | Adopted | Sept | 2011 |
| | V.701 | Amended | July | 1492 |
| | VII.149 | Amended | Jan | 97 |
| | VII.193 | Adopted | Jan | 98 |
| | VII.335 | Amended | April | 792 |
| | VII.345 | Amended | Mar | 513 |
| | VII.355 | Amended | Aug | 1676 |
| | VII.359 | Amended | Aug | 1676 |
| | XI.103 | Amended | July | 1493 |

# Potpourri

## POTPOURRI

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

Timber Stumpage Values

The Louisiana Department of Agriculture and Forestry, Office of Forestry, is hereby giving notice of a joint meeting of the Forestry Commission and Tax Commission to be held on December 11, 2000, 10:00 a.m. at 5825 Florida Boulevard, Baton Rouge, LA 70806. Interested persons may submit written or oral comments to the address above prior to the hearing.

The staff of the Louisiana Department of Agriculture and Forestry, Office of Forestry recommends that the following stumpage values be adopted for the purpose of determining severance tax for calendar year 2001.

| Trees and Timber | Price/Scale | Price/Ton |
|---|---|---|
| Pine Sawtimber | $369.12/MBF | $46.14/Ton |
| Hardwood Sawtimber | $228.39/MBF | $24.04/Ton |
| Pine Chip and Saw | $100.42/CD | $37.19/Ton |
| **Pulpwood** | | |
| Pine Pulpwood | $25.16/CD | $9.32/Ton |
| Hardwood Pulpwood | $12.73/CD | $4.47/Ton |

Data used to determine these recommendations are from the *Quarterly Report of Forest Products* as follows.

| **Third Quarter 1999 (July-September)** | | | |
|---|---|---|---|
| **Product** | **Stump Vol (Tons)** | **Stump Val ($)** | **Stump Avg ($/Ton)** |
| Pine Sawtimber | 492,834.37 | $22,710,405.93 | $46.08 |
| Hardwood Sawtimber | 223,499.28 | 5,613,946.16 | 25.12 |
| Pine Pulpwood | 1,295,475.80 | 12,111,194.35 | 9.35 |
| Hardwood Pulpwood | 294,232.32 | 1,399,683.78 | 4.76 |
| Chip-N-Saw | 34,976.56 | 1,263,426.20 | 36.12 |
| **Fourth Quarter 1999 (October-December)** | | | |
| **Product** | **Stump Vol (Tons)** | **Stump Val ($)** | **Stump Avg ($/Ton)** |
| Pine Sawtimber | 485,923.05 | $22,386,589.72 | $46.07 |
| Hardwood Sawtimber | 217,753.59 | 5,015,113.97 | 23.03 |
| Pine Pulpwood | 493,329.37 | 4,824,043.26 | 9.78 |
| Hardwood Pulpwood | 328,294.92 | 1,637,761.97 | 4.99 |
| Chip-N-Saw | 71,042.75 | 2,449,409.76 | 34.48 |
| **First Quarter 2000 (January-March)** | | | |
| **Product** | **Stump Vol (Tons)** | **Stump Val ($)** | **Stump Avg ($/Ton)** |
| Pine Sawtimber | 502,562.35 | $23,651,770.23 | $47.06 |
| Hardwood Sawtimber | 107,198.29 | 2,495,548.65 | 23.28 |
| Pine Pulpwood | 285,929.22 | 2,746,570.44 | 9.61 |
| Hardwood Pulpwood | 187,936.92 | 826,714.45 | 4.40 |
| Chip-N-Saw | 26,069.82 | 1,091,671.03 | 41.87 |
| **Second Quarter 2000 (April-June)** | | | |
| **Product** | **Stump Vol (Tons)** | **Stump Val ($)** | **Stump Avg ($/Ton)** |
| Pine Sawtimber | 556,277.65 | $25,261,283.06 | $45.41 |
| Hardwood Sawtimber | 130,857.94 | 3,206,443.47 | 24.50 |
| Pine Pulpwood | 516,403.46 | 4,464,807.63 | 8.65 |
| Hardwood Pulpwood | 224,006.04 | 755,764.26 | 3.37 |
| Chip-N-Saw | 36,385.07 | 1,461,651.26 | 40.17 |
| **State Totals** | | | |
| **Product** | **Stump Vol (Tons)** | **Stump Val ($)** | **Stump Avg ($/Ton)** |
| Pine Sawtimber | 2,037,597.42 | $94,010,048.94 | $46.14 |
| Hardwood Sawtimber | 679,309.10 | 16,331,052.25 | 24.04 |
| Pine Pulpwood | 2,591,137.85 | 24,146,615.68 | 9.32 |
| Hardwood Pulpwood | 1,034,470.20 | 4,619,924.46 | 4.47 |
| Chip-N-Saw | 168,474.20 | 6,266,158.25 | 37.19 |
| **Conversion Factors** | | | |
| MBF Pine Doyle Scale = 16,000 lbs. = 8.00 Tons | | | |
| MBF Hardwood Doyle Scale = 19,000 lbs. = 9.50 Tons | | | |
| Cord Pine = 5,400 lbs. = 2.70 Tons | | | |
| Cord Hardwood = 5,700 lbs. = 2.85 Tons | | | |
| Chip-N-Saw = 5,400 lbs. = 2.70 Tons | | | |

Signed and attested to this 10th day of October, 2000.

Bob Odom
Commissioner

0010#062

## POTPOURRI

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

Semiannual Regulatory Agenda for October 15, 2000

The Department of Environmental Quality announces the availability of the October 15, 2000, edition of the *Semiannual Regulatory Agenda* prepared by the Environmental Planning Division, Regulation Development Section. The current agenda contains information on rules that have been proposed but have not been published as final and rules that are scheduled to be proposed in 2000 and 2001. The agenda is available on the Department's web site at http://www.deq.state.la.us/planning/regs/index.htm. Copies of the agenda may be purchased by contacting the Department of Environmental Quality, Office of Environmental Assessment, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178, or by

calling (225) 765-0399. Check or money order is required in advance for each copy of the agenda.

James H. Brent, Ph.D.
Assistant Secretary

0010#040

## POTPOURRI

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

Solicitation of Comments on $NO_x$ Reasonably Available Control Technology (RACT) for Ozone Control

Louisiana has experienced many days of elevated ozone levels this summer throughout the state and especially in the Baton Rouge area as a number of the monitored readings have exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone nonattainment area, that includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Therefore, identification and promulgation of regulations to implement emission reduction controls is necessary by August 15, 2001. Options being considered include controls on a statewide basis.

The LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the ozone NAAQS standard. Rules to implement emission reduction controls for inclusion in the SIP must be promulgated. In accordance with R.S. 49:953 of the Administrative Procedure Act, any proposed rule must include a Fiscal and Economic Impact Statement. Further, the LDEQ is required, by R.S. 30:2019(D) and R.S. 49:953(G) to perform a cost/benefit and risk analysis if a rule has a fiscal impact of $1 million or more and is not required for compliance with a federal law or regulation.

The LDEQ is considering options to reduce oxides of nitrogen ($NO_x$). The options under consideration are as follows:

1. a $NO_x$ RACT Rule similar or equal to the LDEQ Rule promulgated on February 20, 1994, as LAC 33:III.Chapter 22 (copies available upon request or refer to the *Louisiana Register*);
2. a $NO_x$ Emissions Cap and Trade Rule (following EPA's proposed rule format published in the *Federal Register* on January 18, 2000);
3. a. remove the CAA Section 182(f) exemption(s); and/or

    b. if exemption removed, then specify a higher offset ratio in lieu of LAER for $NO_x$ New Source Review.
4. Please consider the various geographic options below when preparing responses for 1 through 3 above.

The LDEQ is also considering different geographical areas for applicability of these options. The areas under consideration are as follows:

1. the 5-parish Baton Rouge area designated as a serious ozone nonattainment area;
2. a Baton Rouge regional area that would include the parishes of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Lafourche, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Tangipahoa, Terrebonne, Vermilion, West Baton Rouge, and West Feliciana;
3. a south Louisiana area that would include all the parishes listed in 2 above, plus the parishes of Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Orleans, Plaquemines, Rapides, St. Bernard, St. Tammany, Vernon, and Washington; or
4. statewide.

The LDEQ requests all interested parties to submit information and comments regarding options of $NO_x$ reductions and geographical applicability. The LDEQ specifically requests comments regarding the following issues:

1. What are the expected environmental benefits and/or disbenefits of the $NO_x$ reductions under consideration? For what geographical areas?
2. What are the potential manufacturing/processing costs/impacts for the options of $NO_x$ reductions under consideration? For what geographical areas?
3. For a $NO_x$ Cap and Trade rule, the rule should cover what universe of sources, baseline emission levels, emissions cap and rate of decline, what level of allocation of emissions allowances and utilize what standardized monitoring and measurement techniques? For what geographical areas?
4. Should a $NO_x$ Cap and Trade rule stand as a contingency measure for the SIP? For what geographical areas?
5. What other $NO_x$ reductions should LDEQ consider? For what geographical areas?
6. Could $NO_x$ reductions be implemented for the 2002 ozone season? For what geographical areas? If not by 2002, then when at the earliest?
7. Other information or comments regarding $NO_x$ reductions.
8. Please send comments on any plans for $NO_x$ reductions through 2005.

Should the LDEQ propose a rule to implement a $NO_x$ RACT Rule (including geographical areas of applicability) or a $NO_x$ Emissions Cap and Trade Rule, the public will have an additional opportunity to comment during the rulemaking process.

Comments are due no later than 4:30 p.m. CST on Thursday, November 30, 2000, and should be submitted to Ms. Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or hand-delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810 or faxed to (225) 765-5095. Persons commenting should reference this document as "$NO_x$ RACT for Ozone Control."

James H. Brent, Ph.D.
Assistant Secretary

0010#041

## POTPOURRI

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

Solicitation of Comments on Reduction in Emission of Volatile Organic Compounds for Ozone Control

Louisiana has experienced many days of elevated ozone levels this summer throughout the state and especially in the Baton Rouge area as a number of the monitored readings have exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone nonattainment area, that includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Therefore, identification and promulgation of regulations to implement emission reduction controls is necessary by August 15, 2001.

The LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS standard. Rules to implement emission reduction controls for inclusion in the SIP must be promulgated. In accordance with R.S. 49:953 of the Administrative Procedure Act, any proposed rule must include a Fiscal and Economic Impact Statement. Further, the LDEQ is required, by R.S. 30:2019(D) and R.S. 49:953(G) to perform a cost/benefit and risk analysis if a rule has a fiscal impact of $1 million or more and is not required for compliance with a federal law or regulation.

The LDEQ is considering statewide applicability of the following Volatile Organic Compound (VOC) rules: LAC 33:III.2103 (Storage of Volatile Organic Compounds), §2109 (Oil/Water-Separation), §2115 (Waste Gas Disposal), §2122 (Fugitive Emission Control for Ozone Nonattainment Areas), §2123 (Organic Solvents), §2131 (Filling of Gasoline Storage Vessels), §2135 (Bulk Gasoline Terminals), §2143 (Graphic Arts [Printing] by Rotogravure and Flexographic Processes), §2147 (Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations), §2149 (Limiting Volatile Organic Compound Emissions from Batch Processing), §2151 (Limiting Volatile Organic Compound Emissions from Cleanup Solvent Processing), and §2153 (Limiting Volatile Organic Compound Emissions from Industrial Wastewater).

The LDEQ will also consider expanding the applicability thresholds either on a regional or statewide basis for the rules listed above.

The LDEQ requests all interested parties submit information to the Department for consideration prior to rulemaking. The LDEQ specifically requests responders to address the following questions:

1. What are the expected environmental benefits and/or disbenefits of the rule options under consideration? Respondent should address the potential environmental impact on all media (air, water, etc.), if air emissions controls would result in adverse impacts on other media.
2. What is the potential manufacturing/retrofit/new control equipment costs for the rules under consideration? Please specify costs attributed to each revised section of Chapter 21.
3. What should be the geographic applicability areas for the options under consideration if not statewide?
4. Are there any other VOC rule specifications the LDEQ should consider? Please answer the above questions by referencing a specific section of Chapter 21.
5. Any other information the responder desires to be in the record.
6. Please comment on any plans for VOC reductions through 2005.

Should the LDEQ propose a rule to implement new or revised existing VOC controls, the public will have an additional opportunity to comment during the rulemaking process.

Comments are due no later than 4:30 p.m. CST on Friday, December 15, 2000, and should be submitted to Ms. Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or hand-delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810 or faxed to (225) 765-5095. Persons commenting should reference this document as "Reduction in Emission of Volatile Organic Compounds for Ozone Control."

James H. Brent, Ph.D.
Assistant Secretary

0010#042

## 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, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

| Operator | Field | District | Well Name | Well Number | Serial Number |
|---|---|---|---|---|---|
| Americana Oil & Gas Co., Inc. | Richland | M | McConnell | 1-B | 124743 |
| The Angelina Corporation | Wildcat | L | SL 2044 | 001 | 124991 |
| Cleary Petroleum Corporation | Perry | L | Delma Meaux | 001 | 137383 |
| Energy Salvage, Inc. | Bayou Pigeon | L | SD RA SUA; Iberia PH SCH BD | 002 | 129027 (30) |
| Great Yellowstone Corp. | Bayou Pigeon | L | 00 SUC:A G Delahoussaye | 001 | 071217 |
| C. L. Harvey | Eola | L | SL 414 Bayou Boeuf | 001 | 022239 |
| C. L. Harvey | Eola | L | SL 414 Bayou Boeuf | 003 | 022745 |
| Miles Oil & Gas Co. | Tullos Urania | M | J A Doughty | 001 | 070426 |
| NCM Operations, Inc. | Bayou Bouillon | L | CH RB SUK; Stockstill | 004 | 153575 |
| NCM Operations, Inc. | Bayou Bouillon | L | CH RB SUL;S Stockstill | 005 | 157507 |

| NCM Operations, Inc. | Bayou Bouillon | L | CH RB SUM; Wilberts | 003 | 158271 |
|---|---|---|---|---|---|
| NCM Operations Inc. | Bayou Bouillon | L | Stockstill SWD | 001 | 971258 |
| Shoreline Exploration of Texas | Bay Marchand Block 2 | L | Sl 6430 | 3-D | 152284 |
| Shoreline Exploration of Texas | Bay Marchand Block 2 | L | S 6430 | 3 | 151642 |
| Sam Siegel EtAl | Bellevue | S | Bellevue Unit | 014 | 037763 |
| Sam Siegel EtAl | Bellevue | S | Bellevue Unit | 032 | 037948 |
| Success Oil and Gas Co. Inc. | Richland | M | Sligh et al | 1A | 122279 |
| Success Oil and Gas Co. Inc. | Monroe | M | Jack T Bird | 001 | 018750 |
| Success Oil and Gas Co. Inc. | Monroe | M | Jack T Bird | 002 | 030277 |
| T.N.T. Inc. | Lake Raccourci | L | 13,300 RA SUA;LL&E B | 001 | 115484 (30) |
| Texas Crude Oil Co. | Bully Camp | L | Louis M Adams Unit | 001 | 114301 |
| Texas Crude Oil Co. | Buly Camp | L | BN-5-RA SUA;L Adams | 1D | 116437 |
| Wolf Production, Inc . | Terrebonne Bayou | L | D Peltier et al | 001 | 209631 (28) |
| Wolf Production, Inc. | Bayou Sorrel | L | A Wilbert Sons | 001 | 211940 |

Philip N. Asprodites
Commissioner of Conversation

0010#065

## POTPOURRI

### Department of Natural Resources
### Office of the Secretary

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that five claims in the amount of $16,643.14 were received for payment during the period September 1, 2000 through September 30, 2000. There were five claims paid and zero claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

| | | |
|---|---|---|
| 2916.936 | 8957.242 | Jefferson |
| 2924.430 | 8954.630 | Jefferson |
| 2927.940 | 9157.610 | Vermilion |
| 2940.490 | 9159.100 | Iberia |
| 2946.888 | 8933.314 | St. Bernard |

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804, or you can call (225)342-0122.

Jack C. Caldwell
Secretary

0010#056

## POTPOURRI

### Department of Transportation and Development
### Office of the General Counsel

Fiber Optic Permits
(LAC 70:III.Chapter 25)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, that the Department of Transportation and Development will hold a public hearing at 10 a.m., Monday, November 27, 2000, at the headquarters of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA, in the auditorium on the first floor, for the purpose of receiving public comments on the proposed rule on the subject of fiber optic permits, as published in the *Louisiana Register*, Volume 26, Number 8, August 20, 2000.

All interested persons will be afforded an opportunity to present their views, data, arguments, information, or comments at said hearing.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

0010#015

## POTPOURRI

### Office of Transportation and Development
### Sabine River Compact Administration

Fall MeetingCSabine River Compact Administration

The fall meeting of the Sabine River Compact Administration will be held at the Omni Austin Hotel, Austin, Texas, on October 31, 2000, at 8:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws 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 Kellie Ferguson, Secretary, Sabine River Compact Administration, 15091 Texas Highway, Many, Louisiana 71449, telephone (318) 256-4112.

Kellie Ferguson
Secretary

0010#003

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EOCExecutive Order
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