

## DEPARTMENT OF NATURAL RESOURCES

**HUMAN RESOURCES POLICY NO.: 29**

**EFFECTIVE DATE: JUNE 1, 2015**

**SUBJECT: RECOUPMENT OF OVERPAYMENTS**

**AUTHORIZATION: STEPHEN CHUSTZ, SECRETARY**

### **I. POLICY**

The Department of Natural Resources (DNR) strives to ensure that its employees are paid correctly and that erroneous overpayments are timely recouped with minimal impact to the employee. Overpayments occur when compensation not owed to an employee is paid in error. This includes, but is not limited to overpayment of wages, leave paid in error and the erroneous refund of payroll deductions. DNR is required to make every reasonable effort to recoup overpayments from active and separated employees, including working closely with other state agencies regarding overpayments to employees transferring to or from DNR. Failure to do so is a violation of express law.

### **II. PURPOSE**

This policy sets forth DNR's procedure for recouping overpaid funds from active and separated employees. This policy complies with Article VII, Section 14 of the Louisiana Constitution which prohibits the donation of public funds; La. R.S. 42:460 which requires the Division of Administration to promulgate rules for recoupment of overpayments; and LAC 4:III § 701 *et seq.* which requires state agencies to develop procedures for the recoupment of overpayments.

### **III. APPLICABILITY**

This policy applies to all DNR employees, current and former, who in error receive an overpayment of funds.

### **IV. RECOUPMENT LIMITATIONS**

Both federal and state law place limitations upon the involuntary recoupment of payroll overpayments. These limitations are:

- 1) An employee's gross hourly wage cannot be reduced below the federal minimum wage; and
- 2) No more than twenty-five (25%) percent of an employee's disposable earnings in any workweek may be involuntarily taken.

**NOTE:** These two limitations, imposed by law, may be waived

by an employee who acknowledges receipt of the overpayment and wishes to expedite DNR's recoupment effort. In this event, the employee, in writing, may authorize DNR to withhold a larger percentage or the entirety of his/her bi-weekly net wages as reimbursement in satisfaction of the overpayment.

DNR is required to honor garnishments and wage assignments ordered by a court of law. Therefore, prior to initiating the recoupment process authorized by this policy, the Human Resources Division first must determine whether the employee's wages are subject to an existing garnishment or wage assignment.

## **V. RECOUPMENT PROCESS – ACTIVE EMPLOYEES**

**1) Demand for Reimbursement** – The Human Resources Director shall notify the employee, in writing, of the overpayment and afford the employee an opportunity to respond prior to initiating the recoupment process. The demand for reimbursement shall include:

- a) The pay date the overpayment occurred;
- b) The amount of the overpayment;
- c) The reason the overpayment occurred;
- d) The employee's reimbursement options, as appropriate;
- e) DNR's recoupment proposal;
- f) DNR's overpayment dispute process;
- g) The deadline to notify the Human Resources Director of the intention of disputing the demand for reimbursement;
- h) The deadline to notify the Human Resources Director of the reimbursement option chosen;
- i) Notice that failure to respond by the deadline will result in forfeiture of the right to dispute the overpayment; and
- j) Notice that failure to respond by the deadline will result in DNR's recoupment proposal being given effect.

### **2) Reimbursement Options Available**

#### **Active DNR Employees**

- a) Direct deposit reversal;
- b) One-time payroll deduction;
- c) Payment plan (not to exceed twelve months); or
- d) Personal payment via certified funds.

#### **Active Employees Separating from State Service**

- a) Direct deposit reversal;
- b) Final paycheck withholding;
- c) Terminal annual leave payout withholding; or
- d) Personal payment via certified funds.

### **Active Employees Transferring to Another State Agency**

- a) Direct deposit reversal;
- b) One-time payroll deduction;
- c) Payment plan (not to exceed twelve months); or
- d) Personal payment via certified funds.

**NOTE:** When the employee transfers to another agency before the reimbursement process has begun, DNR and the gaining agency will work together to recoup the overpayment in accordance with the gaining agency's recoupment process, with the funds received transferred back to DNR.

When the employee transfers to another agency after the reimbursement process has begun, but before the overpayment has been fully satisfied, DNR will notify the gaining agency of the outstanding balance and request that the recoupment process initiated by DNR be continued, with the funds received transferred back to DNR.

### **Active Employees Transferring From Another State Agency**

- a) One-time payroll deduction;
- b) Payment plan (not to exceed twelve months); or
- c) Personal payment via certified funds.

**NOTE:** When the employee transfers from another agency before the reimbursement process has begun, DNR will work with the losing agency to recoup the overpayment in accordance with DNR's recoupment process, with the funds received transferred back to the losing agency.

When the employee transfers to DNR after the recoupment process has begun by the losing agency, but before the overpayment has been fully satisfied, DNR will continue the recoupment process initiated by the losing agency, with the funds received transferred back to the losing agency.

## **VI. RECOUPMENT PROCESS – SEPARATED EMPLOYEES**

- 1) Demand for Reimbursement** – The Human Resources Director shall notify the former employee, in writing, of the overpayment and afford the former employee an opportunity to respond prior to initiating the recoupment process. The demand for reimbursement shall include:

- a) The pay date the overpayment occurred;
- b) The amount of the overpayment;
- c) The reason the overpayment occurred;

- d) The separated employee's reimbursement options;
- e) DNR's recoupment proposal;
- f) DNR's overpayment dispute process;
- g) The deadline to notify the Human Resources Director of the intention of disputing the demand for reimbursement;
- h) The deadline to notify Human Resources Director of the reimbursement option chosen; and
- i) Notice that failure to respond will result in litigation.

**2) Reimbursement Options Available:**

- a) Personal payment via certified funds; or
- b) Payment plan with the separated employee executing a promissory note acknowledging the amount due and reimbursement terms.

**VII. DISPUTE RESOLUTION PROCESS**

Any current or former employee who, after receiving notice of an overpayment, disputes the validity of the demand for reimbursement or the amount thereof, has the option of initiating the dispute resolution process set forth below. No action will be taken by DNR to recover the overpayment until the dispute process is exhausted.

- 1) Within five business days of receipt of the notice of overpayment, the employee/former employee shall notify the Human Resources Director, in writing, of his/her disagreement and desire to challenge the claimed overpayment. This notice shall clearly set forth the employee's/former employee's basis for disputing the overpayment, along with documentation in support of his/her challenge to the recoupment process.
- 2) The Human Resources Director shall review the documentation submitted and, within five business days, notify the employee/former employee of the outcome of the dispute resolution process. Such notice shall explain the basis for the Human Resources Director's decision and advise the employee/former employee that the recoupment process will be discontinued or that DNR will proceed with recoupment.
- 3) If the decision is that the overpayment occurred and recoupment is warranted, the Human Resources Director shall make one final effort to reach agreement with the employee/former employee in accordance with the applicable reimbursement options.
- 4) If agreement cannot be reached, the Human Resources Director will notify the active employee that the involuntary recoupment process will ensue. Separated employees will be notified that litigation will ensue without further notice.

**VIII. LEGAL ACTION**

If the employee or former employee persists in disputing the demand for reimbursement or if DNR is unable to recover the overpayment in full in accordance with the procedures outlined herein, DNR's Legal Division will be consulted. The legal review process will consider the following:

- 1) The total dollar value of the overpayment;
- 2) The period of time during which the overpayment occurred;
- 3) The period of time elapsed since the overpayment;
- 4) The cost of the recoupment effort; and
- 5) The likelihood of the recoupment effort being successful.

After thorough consideration of the foregoing factors, with the benefit of the advice of counsel, the Secretary will determine whether litigation is warranted or no further action should be taken. In the event civil litigation is authorized to recoup the overpayment, the employee/former employee shall be responsible for all costs incurred by DNR.

**IX. NOTICE TO EMPLOYEES**

All prospective employees (new hires, reemployments and transfers from other agencies), prior to final employment approval, are required to sign a formal Acknowledgment evidencing receipt and understanding of DNR's recoupment obligation and procedure.

**X. ENFORCEMENT**

In addition to the recoupment options set forth herein, current employees may be subject to corrective action for failure to meaningfully cooperate in the recoupment process.

**XI. QUESTIONS**

Questions regarding this policy should be addressed to the Human Resources Division.

  
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**STEPHEN CHUSTZ, SECRETARY**  
 5/29/15  
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**DATE**

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**INITIAL ISSUE DATE: 05/05**

**REVISION DATE: 06/15**

**DEPARTMENT OF NATURAL RESOURCES**

**RECOUPMENT OF OVERPAYMENTS**

**ACKNOWLEDGMENT**

My signature hereon acknowledges:

- 1) That I have read HR Policy No. 29 entitled Recoupment of Overpayments;
- 2) That I understand the purpose and intent of this policy;
- 3) That I understand that compliance with this policy is a condition of employment/continuing employment with DNR; and
- 4) That I agree to comply with the terms and provisions of this policy.

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Signature

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Printed Name

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Date