

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Structural Pest Control (LAC 7:XXV.101, 119 and 121)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding definitions and minimum specifications for the wood destroying insect report (WDIR). Affected persons are paying for these services now. These rules allow the Department to update the WDIR form rules for using the document and to insure that the state's citizens are getting the services for which they are paying.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to provide for uniform minimum specifications for inspections done using the WDIR documents. This rule better defines wood-destroying insects and the requirements for conducting the inspection. These rules insure that pest control operators conduct WDIR inspections by using, at the very least, a minimum set of requirements.

These rules comply with and are enabled by R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

* * *

Wood-Destroying Insects Subterranean termites, drywood termites, powder post beetles, old house borers, carpenter ants, and carpenter bees.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 30:

§119. Contracts for Termite Control Work

A. - D. ...

E. The licensee must report to the commission, no later than the tenth day of each month, each contract for post construction and initial pre-treatment termite work which he has entered into, and performed or completed during the previous month. If no contracts were entered into or performed during the previous month, the licensee must report this fact to the commission no later than the tenth of each month.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3363 and R.S. 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 30:

§121. Wood Destroying Insect Report

A. A wood destroying insect report approved by the Structural Pest Control Commission shall be issued when any inspection is made to determine the presence of wood destroying insects, specifically for acts of sale of structures, but not limited for this purpose.

B. Any wood destroying insect report or written instrument issued for the transfer of real property, shall be issued by a person who is licensed by the Structural Pest Control Commission as a wood destroying insect report (WDIR) inspector or a registered wood destroying insect technician and is working under the supervision of a person who is licensed by the Structural Pest Control Commission as a WDIR inspector. This instrument shall carry a guarantee that the structure(s), listed in 5 C. of the WDIR, will be treated without charge should live wood destroying insects with the exception, the presence of frass will be acceptable as evidence of a live infestation of Power Post Beetles; however, frass must be exuding or streaming from the holes on the outside of the wood, covered by this report, and be found in or on the inspected structure(s) within 90 days from date of inspection.

1. A contract approved by the Structural Pest Control Commission shall be issued on date of treatment.

2. This contract shall be reported to the commission and a fee paid as required by the Structural Pest Control Commission Law.

C. Regulations for completing wood destroying insect reports LPCA-143 WDIR without the Arbitration clause and 143 A. with the Arbitration clause. The following numbered sections correspond to the numbered sections on WDIR Form LPCA 143 and 143 A. LPCA 143 and 143 A shall be completed as follows.

1. Enter HUD/FHA/VA Case number (if available).
2. Enter date of structure(s) inspection.
- 3.A. Enter name of inspection company.
- 3.B. Enter address (including street, city, state, and zip code) of inspection company.
- 3.C. Enter telephone number (include area code) of inspection company.
4. Enter pest control inspector license number.
- 5.A. Enter name and address of property owner/seller at the time of inspection.
- 5.B. Enter address of property inspected (including street, city, state, and zip code).
- 5.C. List only structures located at address in 5B that are part of this report.
- 5.D. Information only. This area shall not be checked, circled or marked in any way.
6. If any areas of the structure(s) were obstructed or inaccessible mark box YES. If no, mark box NO.
7. Check the appropriate block as to the construction of the structure(s) inspected. More than one block can be checked.

8.A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects. When this block is checked, no other block in Section 8 shall be checked.

8.B. Check this block if evidence of wood destroying insects is observed. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or evidence of damage due to wood destroying insects. If live wood destroying insects are observed, identify and list the insect(s) observed and the location(s) in this Section.

8.C. Check this box if visible evidence of damage due to wood destroying insects was observed. Evidence of damage is defined as obvious feeding or removal of wood by wood destroying insects including "etching" or "scabbing" marks on the wood surface(s). Identify the wood destroying insect and list the location(s) of evidence of damage caused by wood destroying insects in this Section.

8.D. Treatment was or will be performed by inspection company? YES or Number If YES, explain as follows:

a. Inspecting company with a current treatment contract on the structure(s) inspected: list the original treatment date for all structures treated and the contract type.

b. Inspecting company without a current treatment contract on the structure(s) inspected: list the structure(s) to be treated and the type of treatment and contract.

9. Additional comments (If necessary, continue on reverse side).

10. Make no marks in this section.

11. Do not mark in this section.

a. If any of the conditions listed in this paragraph on the WDIR (LPCA 143 & 143 A) are present under or to within 12 inches of the inspected structure(s), list them in section #10 of this report.

12. Signature and registration/licensee number of inspector conducting the inspection.

13. Enter date of inspector signature.

14. Enter name of person requesting the WDIR (if available).

15. Signature of person WDIR received by (if available).

16. Title of person in Number 15 (if available).

17. Date of signature of Number 15 (if available).

D. Minimum Specifications for conducting a Wood Destroying Insect Report

1. No person shall conduct a WDIR inspection unless that person is properly licensed with the Louisiana Structural Pest Control Commission to conduct WDIR inspections or is working under the supervision of a licensed WDIR inspector and is properly registered to conduct WDIR inspections.

2. WDIR inspector/technician shall inspect all unobstructed or accessible areas including but not limited to bath traps with visible access, crawl spaces of raised pier construction, and attics having a permanent ladder or staircase specifically to provide access to the attic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 30:

Family Impact Statement

The proposed amendments to rules 7:XXV.Chapter 1 regarding definitions and the wood destroying insect report should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

A public hearing will be held on these rules on October 29, 2004 at 9 a.m. at the address listed below. Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through close of business on October 28, 2004 at 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is available.

Signed and attested to this 24th day of August 2004.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Structural Pest Control

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Louisiana Department of Agriculture and Forestry proposes to amend regulations regarding wood destroying insect reports (WDIR). There will be no increase in the costs because the rules are updating and standardizing the requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no increase in revenue collections to the Structural Pest Control Commission. The rule amends the definitions and minimum specifications for WDIR.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no increase in costs to individuals. The rule amends the definitions and minimum specifications for WDIR. Affected persons are paying for these services now. These rules allow the Department to update the WDIR form and rules for using the document to insure that the state's citizens are getting the services for which they are paying.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0409#017

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Services

Market Bulletin Subscriber Fee (LAC 7:I.101)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner, proposes to amend regulations regarding the market bulletin subscriber fee.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary due to the current regulations being redundant and outdated. This department is committed to eliminating and simplifying regulations when it is prudent and practical.

These rules comply with and are enabled by R.S. 43:31.

Title 7

AGRICULTURE AND ANIMALS

Part I. Administration

Chapter 1. Administration Procedure

§101. Market Bulletin Subscriber Fee

A. There is hereby established and henceforth shall be a biennial fee to be paid by the subscribers to the *Louisiana Market Bulletin* of \$10, which shall be known as the subscription fee.

B. The subscription fee shall be paid by the subscriber to the Department of Agriculture and Forestry biennially and when paid shall entitle the subscriber to 52 issues of the *Louisiana Market Bulletin*.

C. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 15:75 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 30:

Family Impact Statement

The proposed amendments to rules LAC 7:I.101 regarding the market bulletin subscriber fee should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Marvin Montgomery through October 27, 2004 at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Market Bulletin Subscriber Fee

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary due to the current regulations being redundant and outdated. This department is committed to eliminating and simplifying regulations when it is prudent and practical.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is estimated to be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0409#018

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Services Division of Weights and Measures

Petroleum Product Specifications (LAC 7:XXXV.Chapter 3)

Editor's Note: The following Notice of Intent is being reprinted for corrections. The original text may be viewed in its entirety on pages 1421-1429 of the July 2004 edition of the *Louisiana Register*.

The Commissioner of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures intends to adopt the following rules and regulations governing specifications for petroleum products, including motor vehicle fuels. These Rules are being adopted in accordance with R.S. 3:4608, R.S. 3:4671, R.S. 3:4673, R.S. 3:4678, R.S. 3:4679, R.S. 3:4681, R.S. 3:4682, R.S. 3:4683, and the Administrative Procedure Act, R.S. 49:950 et seq.

Petroleum products, including motor vehicle fuels, are essential to the community, to industry including agriculture and forestry, and to the welfare of the citizens of Louisiana. The production, distribution and sale of petroleum products that meet established standards are necessary to protect industry and the consumer.

The specifications adopted by the state for petroleum products need to track developments in the industry. Recent changes in industry specifications and further environmental restrictions require that Louisiana's regulations regarding the specifications of petroleum products be updated.

These rules are enabled by R.S. 3:4608, R.S. 3:4618, R.S. 3:4671, R.S. 3:4673, 3:4678, 3:4679, 3:4681, 3:4682, and 3:4683.

Adoption of these Rules terminates Rules promulgated by DOTD at LAC Title 73, Part III, Chapter 1, §101-§109, as authorized by Section 4 of Act 38 of the First Extraordinary Session of 1998.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products

Subchapter A. Standards

§301. Definitions

A. As used in this Subchapter, the terms defined in this Section have the meanings herein given to them, except where the context expressly indicates otherwise.

ASTM or ASTM International The national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

Antiknock Index or AKI The arithmetic average of the Research Octane Number (RON) and Motor Octane Number (MON): $AKI = (RON+MON)/2$. In addition to anti-knock index, this value is called by a variety of names including: octane rating, posted octane, and $(R+M)/2$ octane.

Automotive Fuel Rating The automotive fuel rating required under federal law.¹ The automotive fuel rating for gasoline is the antiknock index. The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel and the disclosure of the amount, expressed as a minimum percentage, by volume of the principal component of the fuel.

Automotive Gasoline or Automotive Gasoline-Oxygenate Blend A type of fuel suitable for use in automotive spark-ignition internal combustion engines and also commonly used in marine and non-automotive applications.

Aviation Gasoline A type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.

Aviation Turbine Fuel A refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.

Base Gasoline All components other than ethanol in a blend of gasoline and ethanol.

Biodiesel A blend consisting of diesel fuel and a substantial amount of esterified animal fats and/or vegetable oil(s).

Cetane Index An approximation of the cetane number of distillate diesel fuel, which does not contain a cetane improver additive, calculated from the density and distillation measurements.

Cetane Number A numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.

Diesel Fuel A refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine.

Distillate Any product obtained by condensing the vapors given off by boiling petroleum or its products.

EPA The United States Environmental Protection Agency.

E85 Fuel Ethanol A blend of ethanol and hydrocarbons of which the ethanol portion is nominally 75 to 85 volume percent denatured fuel ethanol.

Engine Fuel Any liquid or gaseous matter used for the generation of power in an internal combustion engine.

Engine Fuels Designed for Special Use Engine fuels designated by the commissioner as requiring registration. These fuels normally do not have ASTM or other national consensus standards applying to their quality or usability; common special fuels are racing fuels and those intended for agricultural and other off-road applications.

Ethanol or Denatured Fuel Ethanol Nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine.

Fuel Oil Refined oil middle distillates, heavy distillates, residues of refining, or blends of these suitable for use as a fuel for heating or power generation, the classification of which shall be defined by ASTM D 396.

Gasoline A volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in a spark-ignition internal combustion engine.

Gasoline-Alcohol Blend A fuel consisting primarily of gasoline and a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more alcohols.

Gasoline-Oxygenate Blend A fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more oxygenates.

Kerosene or Kerosine A refined middle distillate suitable for use as a fuel for heating or illuminating, the classification of which shall be defined by ASTM D 3699.

Lead Substitute An EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.

Lead Substitute Engine Fuel For labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute."

Leaded For labeling purposes, any gasoline or gasoline-oxygenate blend that contains more than 0.013 g of lead per liter (0.05 g lead per U.S. gal).²

Low Sulfur Low sulfur diesel fuel that meets ASTM D 975 standards, e.g., Grade Low Sulfur No. 1-D or Grade Low Sulfur No. 2-D.

Low Temperature Operability A condition that allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.

Lubricity A qualitative term describing the ability of a fluid to affect friction between surfaces and wear to surfaces in relative motion under load.

M100 Fuel Methanol A nominally anhydrous methyl alcohol, generally containing small amounts of additives, suitable for use as a fuel in a compression-ignition internal combustion engine.

M85 Fuel Methanol A blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent.

Motor Octane Number or MON A numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test.

Oxygen Content of Gasoline The percentage of oxygen by mass contained in a gasoline.

Oxygenate An oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.

Reformulated Gasoline A volatile mixture of liquid hydrocarbons and oxygenates meeting the reformulated gasoline requirements of the Clean Air Act Amendments of 1990 and suitable for use as a fuel in a spark-ignition internal combustion engine.

Research Octane Number or RON A numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2699 Research Method engine test.

SAE The Society of Automotive Engineers, a technical organization for engineers, scientists, technicians, and others in positions that cooperate closely in the engineering, design, manufacture, use, and maintainability of self-propelled vehicles.

Substantially Similar The EPA's "Substantially Similar" rule, Section 211(f) of the Clean Air Act [42 U.S.C. 7545(f)].

Thermal Stability The ability of a fuel to resist the thermal stress that is experienced by the fuel when exposed to high temperatures in a fuel delivery system.

Total Alcohol The aggregate total in volume percent of all alcohol contained in any fuel defined in this Subchapter.

Total Oxygenate The aggregate total in volume percent of all oxygenates contained in any fuel defined in this Subchapter.

Unleaded (when used in conjunction with *engine fuel* or *gasoline*) Any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram of lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram of phosphorus per liter (0.005 g phosphorus per U.S. gal).

Wholesale Purchaser Consumer Any person who is an ultimate consumer of gasoline, fuel methanol, fuel ethanol, diesel fuel, biodiesel, fuel oil, kerosene, aviation turbine fuel, or aviation gasoline and who purchases or obtains the product from a supplier and receives delivery of that product into a storage tank.

¹16 CFR Part 306, adopted pursuant to 15 U.S.C. 2801, et seq.

²NOTE: EPA defines leaded fuel as one which contains more than 0.0013 g of phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. Gasoline and gasoline-oxygenate blends sold, offered for sale, or distributed in Louisiana shall meet the following requirements.

1. The latest revision of ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," as approved and published by ASTM International, except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency.¹ Gasoline blended with ethanol shall be blended under any of the following three options:

- a. the base gasoline used in such blends shall meet the requirements of the latest revision of ASTM D 4814; or
- b. the blend shall meet the requirements of the latest revision of ASTM D 4814; or
- c. the base gasoline used in such blends shall meet all the requirements of the latest revision of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of the ASTM specification.

2. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 pounds per inch.

3. The Antiknock Index (AKI) shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.

4. The minimum motor octane number shall not be less than 82 for gasoline with an AKI of 87 or greater.

5. Gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal).

6. Gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).

a. Upon the request of the commissioner, the lead substitute additive manufacturer shall provide documentation to the commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g per U.S. gal) lead. The commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:

- i. test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act; or
- ii. until such time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear, test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.

7. Blending. Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the

EPA "substantially similar" rule or an EPA waiver for unleaded fuel.

8. Gasoline or gasoline-oxygenate blends sold or delivered to consumers in Louisiana shall meet all the foregoing specifications and, in addition, shall have on all retail pumps a posted Antiknock Index. The Antiknock Index of the gasoline or gasoline-oxygenate blend shall not be less than the Antiknock Index posted on the pump.

¹For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pa 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§305. Standard Fuel Specifications for Diesel Fuel

A. Diesel fuel sold, offered for sale, or distributed in Louisiana shall meet the following requirements:

1. The latest revision of ASTM D 975, "Standard Specification for Diesel Fuel Oils," as approved and published by ASTM International.¹

2. All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier must conform to the following requirements.

a. Cetane Number. A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613.

b. Low Temperature Operability. A cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test or LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.

c. Thermal Stability. A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D 6468 (180 minutes, 150 °C).

d. Lubricity. A maximum wear scar diameter of 520 microns as determined by ASTM D 6079. If a single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this Part.

¹For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§307. Standard Fuel Specifications for Aviation Turbine Fuels

A. Aviation Turbine Fuels sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 1655, "Standard Specification for Aviation Turbine Fuels," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§309. Standard Fuel Specifications for Aviation Gasoline

A. Aviation Gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 910, "Standard Specification for Aviation Gasoline," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§311. Standard Fuel Specifications for Fuel Oils

A. Fuel Oils sold, offered for sale or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 396, "Standard Specification for Fuel Oils," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§313. Standard Fuel Specifications for Kerosene

A. Kerosene (Kerosine) sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 3699, "Standard Specification for Kerosine," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§315. Standard Specifications for Ethanol

A. Ethanol intended for blending with gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§317. Standard Fuel Specifications for Fuel Ethanol

A. E85 Fuel Ethanol sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines" as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§319. Standard Fuel Specifications for Fuel Methanol

A. M85 Fuel Methanol sold, offered for sale or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 5797, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark Ignition Engines," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, E85 and E100 fuel ethanol, biodiesel, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain Antiknock Index or ASTM grade shall not be permitted unless the Antiknock Index or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of this Subchapter.

B. All retail dispensing devices must identify conspicuously the type of product, the particular grade of the product, and the applicable Antiknock Index (AKI). The device shall automatically show on its face the initial zero condition and the quantity delivered (up to the nominal capacity). However, the first 0.03 L (or 0.009 gal.) of a delivery and its associated total sales price need not be indicated. In the event of a power loss, the information needed to complete any transaction in progress at the time of the power loss (such as the quantity and unit price, or sales price) shall be determinable for at least 15 minutes at the dispenser or at the console if the console is accessible to the customer. The device memory shall retain information on the quantity of fuel dispensed and the sales price totals during power loss. The primary indicating elements, and primary recording elements if the device is equipped to record, shall be readily returnable to a definite zero indication. However, a key-lock operated or other self-operated device may be equipped with cumulative indicating or recording elements, provided that it is also equipped with a zero-return indicating element. It shall not be possible to return primary indicating elements or primary recording elements beyond the correct zero position.

C. A computing or money-operated device shall be able to display on each face the unit price at which the device is set to compute or to dispense. Whenever a grade, brand,

blend, or mixture is offered for sale from a device at more than one unit price, then all of the unit prices at which that product is offered for sale shall be displayed or shall be capable of being displayed on the dispenser using controls available to the customer prior to the delivery of the product. It is not necessary that all of the unit prices for all grades, brands, blends, or mixtures be simultaneously displayed prior to the delivery of the product. This Subsection shall not apply to fleet sales, other contract sales, or truck refueling sales (e.g., sales from dispensers used to refuel trucks).

D. A device shall be able to display conspicuously on each side the identity of the product being dispensed. A device designed to dispense more than one grade, brand, blend, or mixture of product also shall be able to display on each side the identity of the grade, brand, blend, or mixture being dispensed.

E. A computing device shall compute the total sales price at any single-purchase unit price (i.e., excluding fleet sales, other price contract sales, and truck stop dispensers used only to refuel trucks) for which the product being measured is offered for sale at any delivery possible within either the measurement range of the device or the range of the computing elements, whichever is less. The analog sales price indicated for any delivered quantity shall not differ from a mathematically computed price (quantity x unit price = total sales price) by an amount greater than the value in Paragraph E.1. The values of the graduated intervals representing money values on a computing type device shall be no greater than those in Paragraph E.1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers. A computing type device with digital indications shall comply with the requirements of Paragraph E.1 and the total price computation shall be based on quantities not exceeding 0.05 L for devices indicating in metric units and 0.01 gal. intervals for devices indicating in inch-pound units. If a system is equipped with auxiliary indications, all indicated money value divisions of the auxiliary element shall be identical with those of the primary element.

1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers

Unit Price		Money Value Division	Maximum Allowable Variation	
From	To and including		Design Test	Field Test
0	\$0.25/liter or \$1.00/gallon	\$0.01	± \$0.01	± \$0.01
\$0.25/liter or \$1.00/gallon	\$0.75/liter or \$3.00/gallon	\$0.01 or 0.02	± \$0.01	± \$0.02
\$0.75/liter or \$3.00/gallon	\$2.50/liter or \$10.00/gallon	\$0.01 or 0.02	± \$0.01	± \$0.02
\$0.75/liter or \$3.00/gallon	\$2.50/liter or \$10.00/gallon	\$0.05	± \$0.02 1/2	± \$0.05

F. When a product or grade is offered for sale at more than one unit price through a computing device, the selection of the unit price shall be made prior to delivery using controls on the device or other customer-activated controls except for dispensers used exclusively for fleet sales, other price contract sales, and truck refueling, e.g., truck stop dispensers used only to refuel trucks. A system shall not

permit a change to the unit price during delivery of product. When a delivery is completed, the total price and quantity for that transaction shall be displayed on the face of the dispenser for at least five minutes or until the next transaction is initiated by using controls on the device or other customer-activated controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§323. Automotive Gasoline and Automotive Gasoline-Oxygenate Blends

A. All dispensing devices for automotive gasoline and automotive gasoline-oxygenate blends shall post the Antiknock Index in accordance with applicable federal regulations (16 CFR Part 306, adopted 44 FR 19169, as amended 58 FR 41372-4, 59 FR 48798, 61 FR 54549, and 61 FR 55840).

B. The term *leaded* shall only be used when the fuel meets specification requirements of §303.A.5.

C. Each dispensing device from which gasoline or gasoline-oxygenate blends containing a lead substitute is dispensed shall display the following legend: "Contains Lead Substitute." The lettering of this legend shall not be less than 12 mm (1/2 in) in height and the color of the lettering shall be in definite contrast to the background color to which it is applied.

D. Each dispensing device from which gasoline or gasoline-oxygenate blends that contain lead in amounts sufficient to be considered "leaded" gasoline or lead substitute engine fuel are sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 23.63 mm (0.930 in).

E. It is prohibited to use specific terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the minimum Antiknock Index requirement shown in Paragraph E.1: Minimum Antiknock Index Requirements.

1. Minimum Antiknock Index Requirements

Term	Minimum Antiknock Index
Premium, Super, Supreme, High	91
Midgrade, Plus	89
Regular Leaded	88
Regular, Unleaded	87

F. The retailer shall be provided at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers." In addition, any gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§325. Diesel Fuel

A. Diesel Fuel sold, offered for sale, or distributed in Louisiana shall be identified by grades No. 1-D, No. 1-D (low sulfur), No. 2-D, No. 2-D (low sulfur), or No. 4-D. Each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed except the words "low sulfur" are not required.

B. These labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 mm (1/2 in) in height and 1.5 mm (1/16 in) stroke (width of type).

C. Before or at the time of delivery of premium diesel fuel, the retailer or the wholesale purchaser consumer shall be provided on an invoice, bill of lading, shipping paper, or other documentation a declaration of all performance properties that qualifies the fuel as premium diesel fuel as required in §305.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§327. Aviation Turbine Fuels

A. Aviation turbine fuels sold, offered for sale, or distributed in Louisiana shall be identified by Jet A, Jet A-1, or Jet B.

B. Each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§329. Aviation Gasoline

A. Aviation gasoline sold, offered for sale, or distributed in Louisiana shall be identified by Grade 80, Grade 100, or Grade 100LL.

B. Each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.¹

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the

product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

¹National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§331. Fuel Oils

A. Fuel Oil sold, offered for sale, or distributed in Louisiana shall be identified by the grades of No. 1, No. 2, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§333. Kerosene (Kerosine)

A. Kerosene sold, offered for sale, or distributed in Louisiana shall be identified by the grades No. 1-K or No. 2-K.

B. Each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K Kerosene. In addition, No. 2-K dispensers shall display the following legend: "Warning Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12 mm (1/2 in) in height by 1.5 mm (1/16 in) stroke; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§335. Fuel Ethanol

A. Fuel ethanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter E followed by the numerical value volume percentage of ethanol.

B. Each retail dispenser of fuel ethanol shall be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol", e.g., "E85 Ethanol."

C. Fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§337. Fuel Methanol

A. Fuel methanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter M followed by the numerical value volume percentage of methanol.

B. Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol", e.g., "M85 Methanol."

C. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§339. Retail Storage Tanks

A. No water phase greater than 6 mm (1/4 in), as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, aviation gasoline, and aviation turbine fuel.

B. Water shall not exceed 50 mm (2 in) in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends, and kerosene sold at retail except as required in Subsection A.

C. The fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained.

D. When the fill connection device is marked by means of a color code, the color code shall be conspicuously displayed at the place of business.

E. Each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the commissioner or his designee on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§341. Sampling

A. The commissioner or his designee may obtain samples of any and all petroleum products provided for in this Subchapter that are sold, offered for sale, distributed, or used in this state. The samples may be taken from any commercial weighing or measuring device used in the sale or distribution of petroleum products, from any tank or other container used in the transporting of such products, or from any tank or other container containing petroleum products intended for distribution or use in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§343. Nonconforming Product

A. When the analysis of a sample of a petroleum product performed in conformity with the provisions of this Subchapter discloses that the product from which the sample was taken does not conform to the specifications fixed by this Subchapter, it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner or his designee may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subchapter.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner or his designee may, by written order, stop the sale or distribution of this product. The retailer or distributor upon whom a stop-sale order is served is prohibited from exposing for sale, selling, or distributing this product until formally released by order of the commissioner. The stop-sale order given by the commissioner must apply only to that product and may not be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subchapter.

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

D. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface, remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, 4681, 4682, and 4683.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§345. Product Registration

A. All engine fuels designed for special use that do not meet ASTM specifications or standards set out in this Subchapter shall be registered with the commissioner, on forms prescribed by the commissioner, 30 days prior to when the registrant wishes to engage in sales. The registration form shall include all of the following information.

1. Identity business name, address(es), and telephone number(s).

2. Address mailing address if different than business address.

3. Business Type type of ownership of the distributor or retail dealer, such as an individual, partnership, association, trust, corporation, or any other legal entity or combination thereof.

4. Signature an authorized signature, title, and date for each registration.

5. Product Description product brand name and product description.

6. Product Specification a product specification sheet shall be attached.

B. Registration is subject to annual renewal.

C. Renewal of a registration is required 30 days prior to any changes in the information required by Subsection A.

D. The commissioner may decline to register any product that actually or by implication would deceive or tend to deceive a purchaser as to the identity or the quality of the engine fuel.

E. Transferability the registration is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4678, 4680, 4681, 4682, and 4683.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

§347. Test Methods and Reproducibility Limits

A. ASTM Standard Test Methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes.

B. Reproducibility Limits

1. When determining the Antiknock Index acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be utilized for enforcement purposes.

2. The reproducibility limits of the ASTM standard test method used for each test performed shall be utilized for enforcement purposes, except as indicated in Paragraph 1 above.

3. Dispute Resolution. In the event of a dispute over a reported test value, the guidelines presented in the specifications of ASTM D 3244, "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications," shall be used to determine the acceptance or rejection of the sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 30:

Family Impact Statement

The proposed amendments to Title 7:XXXV.Chapter 3 governing specifications for petroleum products, including motor vehicle fuels should not have any known or foreseeable impact on any family as defined by R.S. 49:97(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed rules to Benjy Rayburn through October 25, 2004

at 5825 Florida Blvd., Baton Rouge, LA 70806 or P.O. Box 91081, Baton Rouge, LA 70821-9081. No preamble regarding these rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Petroleum Products Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Commissioner of Agriculture and Forestry intends to amend Rules and Regulation governing specifications for petroleum products, including motor vehicle fuels. Motor vehicle fuels are essential to the community, to industry including agriculture and forestry, and to the welfare of the citizens of Louisiana. The production, distribution and sale of petroleum products, including motor vehicle fuels, which meet established standards, is necessary to protect the consumer and motoring public. Environmental restrictions require that only reformulated gasoline may be sold in East Baton Rouge, West Baton Rouge, Ascension, Livingston and Iberville parishes. The impending adoption of the reformulated gasoline requirement mandates that the state adopt emergency regulations to update the fuel specifications for the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This regulation will not, by it self, have an estimated cost and/or economic benefit to directly affected persons or non-governmental groups. If the courts uphold the mandate by the Environmental Protection Agency requiring sale of reformulated gasoline in the five parish area, that mandate likely will increase the price of gasoline 3 to 5 cents per gallon. This regulation does not mandate that reformulated gasoline be sold. It only establishes a technical specification for such gasoline.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0409#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Seed Commission**

Bulk Seed Certification Standards and Packaging
(LAC 7:XIII.139 and 141)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the

Louisiana Seed Commission, proposes to amend regulations governing bulk certification standards and packaging.

The proposed changes to the bulk certification standards are in order to accommodate the current industries trend towards bulk packaging. Traditionally, rice and small grains have been packaged in 50 or 100 pound containers, but due to the introduction of bulk bags and bulk Q-bit containers (holding up to 2000 pounds of seed and widely used in the seed industry), the industry trend is toward these larger containers and away from the smaller packaging. The bulk certification of the certified class of rice and small grain is currently being allowed. This proposal would extend bulk certification to the registered class of rice and small grain. This trend potentially results in reduced labor costs and packaging costs which is passed on the grower.

Also, Louisiana's certification program is bound by AOSCA (Association of Official Certification Agencies), in order to be in compliance with AOSCA, Louisiana Certification Standards in respect to certified seed conditioning plant inspections must be amended to allow the inspection of a plant's equipment, storage, and processing facilities.

This Rule is enabled by R.S. 3:1433 and 3:1434.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter B. General Seed Certification Requirements

§139. Listing of Certified Seed Conditioning Plants

A. - C.3. ...

4. Processors shall permit inspection by the certifying agency of all records, equipment, storage and processing facilities pertaining to all classes of certified seed.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:196 (April 1983), LR 12:825 (December 1986), LR 20:642 (June 1994), LR 30:

§141. Processing of Certified Seed

A. Bagging

1. All seed approved for certification must be packaged in new 50 or 100 pound containers or less, except as provided by §141.A.1-2.

2. Registered Class of rice and small grains (wheat and oats):

a. new super-bags or Q-Bit bulk containers (or its equivalent as determined by the Louisiana Department of Agriculture and Forestry);

b. after filling and sampling, containers (or their equivalent) used for the packaging of registered seed must be sealed in an LDAF approved manner that prevents removal and re-attachment without tampering being obvious.

3. Certified class of rice and small grains (wheat and oats):

a. new or reusable super-bags or Q-Bit bulk containers (or its equivalent as determined by the Louisiana Department of Agriculture and Forestry).

NOTE: Reusable containers must be cleaned in a manner approved by the Louisiana Department of Agriculture and Forestry.

B. Tagging

1. Each container of all classes of certified seed offered for sale must have an official Department of Agriculture and Forestry tag attached.

2. The lot number of the tag attached to each container must be the same as the lot number marked on the container.

3. The tag shall contain the following information:

- a. kind and variety;
- b. where grown;
- c. percentage of pure seed, crop seed, weed seed and inert matter;
- d. name and number of noxious weed seeds per pound;
- e. grower's name and address or code number;
- f. germination percentage;
- g. hard seed;
- h. total germination and hard seed percentage;
- i. net weight;
- j. lot number; and
- k. date of test.

4. Tags will be issued only for seed proven by laboratory analysis to meet required germination and purity standards.

5. The number of tags issued will be determined by the inspector's estimate of the quantity of seed at the time of sampling. All unused tags must be returned to the Department of Agriculture and Forestry.

6. Pretagging. In order to permit seedsmen to bag and label seed in advance of final laboratory reports, certification tags may be issued in advance. Such labels can be pre-issued upon receipt of completed field inspection reports showing that field production standards have been met. The state may grant a waiver on the movement of seed if an acceptable preliminary test is made on the seed lot. If pretagged lots fail laboratory analysis standards, all tags shall be destroyed or returned to the Louisiana Department of Agriculture and Forestry. Failure to comply with this regulation will result in suspension of future pre-tag privileges.

7. The official certification label may be printed directly on the container with prior approval of the Department of Agriculture and Forestry.

8. Labels other than those printed on the containers shall be attached to containers in a manner that prevents removal and reattachment without tampering being obvious.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), LR 12:825 (December 1986), LR 20: 643 (June 1994), LR 30:

Family Impact Statement

The proposed amendments to Title 7, Part XIII, §§139 and 141 regarding bulk certification standards and packaging should not have any known or foreseeable impact on any family as defined by R. S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rule through October 25, 2004, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulk Seed Certification Standards and Packaging

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Louisiana Seed Commission is proposing to allow the bulk certification of registered class of rice and small grain. The commission is also proposing new language in §139 "Listing of Certified Seed Conditioning Plants" to allow for the inspection of certified seed conditioning equipment, storage, and processing facilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collections of state or local government units. Regarding inspection of certified seed conditioning equipment, storage, and processing facilities, that activity is already included in the current fee structure. As to bulk certification of registered seed, the change would result in fewer containers inspected. However that activity does not occur until February or March and the Department is currently in the process of changing the fee structure from a per package to a per hundredweight rate. This pending change in fee structure would reverse any reduction in revenue from the decrease in certification activity due to the addition of bulk certification. Thus, the effect on revenue of the change to bulk certification is neutral.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Certified seed conditioners and growers, and commercial farmers will be affected by these proposed changes. There should be no additional costs, workload adjustments, or additional paperwork placed upon these groups. Due to the increased capacity of superbags and other bulk containers, processors who package and farmers who use these larger containers could potentially see a reduction in costs. Labor to handle and cost to purchase the smaller containers will be reduced. Those costs are not readily susceptible to calculation. These larger containers essentially takes the place of as many as 40 of the smaller containers. As in the revenue estimate, the reduction in certification activity due to allowance of bulk containers would normally be estimated to reduce costs to processors. However, the Department in proceeding to change its fee structure to shift from a per container to a per hundredweight fee schedule. As this fee schedule will be implemented before the time for the certification activity (February 2005), it is estimated that costs to processors will remain approximately the same. Any difference in cost to processors of the change will be estimated in the change in fee schedule impact statement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

These proposed amendments will have no effect on competition and employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0409#044 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

Receipt of Campaign Funds
(LAC 52:I.101, 1608, and 1912-1923)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate rules concerning the receipt of campaign funds by a legislator or the governor during a legislative session, rules concerning the notification given to persons doing business with the state retirement systems concerning the laws under the jurisdiction of the Board of Ethics, and the form for the filing required by those lobbying executive branch agencies pursuant to R.S. 49:71, et seq.

The proposed Rule has no impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 1. Definitions

§101. Definitions

* * *

Lobbyist Disclosure Act refers to R.S. 24:50 et seq. and R.S. 49:71 et seq.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1288 (October 1997), amended LR 24:1893 (October 1998), LR 30:

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

§1608. Return of Funds Accepted during a Legislative Session or 30 Days Thereafter

A. A legislator who wishes to accept a contribution, loan, or transfer of funds during a regular legislative session as a candidate for an office described in R.S. 18:1505.2Q(3)(b), or a governor who wishes to accept a contribution, loan, or transfer of funds during a regular legislative session or within 30 days thereafter as a candidate for an office described in R.S. 18:1505.2R(3)(b), must open a bank account, separate from any existing campaign or personal accounts, into which such contributions, loans, or transfer of funds are deposited.

B. A legislator or governor who determines he will not seek the office for which he accepted funds during a regular legislative session, or who fails to qualify for the office for which funds were collected, must return each such contribution, loan, or transfer collected during the regular

legislative session, or within 30 days thereafter in the case of the governor, which remains unencumbered or unexpended for expenses directly related to his campaign for an office other than a federal office, no later than 15 days after the legislator or governor determines he will not seek the office, after the close of the qualifying period for the office declared by the legislator of the governor and for which he did not qualify, or after the close of the qualifying period in which he qualified for an office other than one described above, whichever occurs first.

C. In determining whether a contribution, loan, or transfer was expended or encumbered for expenses directly related to a campaign, a "first in, first out" basis of accounting shall be used, with the candidate deemed to have expended funds as they were collected. Funds still on hand, and therefore subject to return, will be the latest funds collected.

D. To determine whether the expenditure or encumbrance was directly related to an office described in R.S. 18:1505.2Q(3)(b) or in R.S. 18:1505.2R(3)(b), whichever is applicable, other than a federal office, the Supervisory Committee will examine the nature of expenditures made or debts incurred including the nature of the advertising, geographic distribution of the advertising, and whether the advertising specifically promoted the elected official for a particular office. Expenditures other than advertising will be examined using similar criteria.

E. Any loans accepted by a legislator in accordance with R.S. 18:1505.2Q(3)(a)(ii) or a governor in accordance with R.S. 18:1505.2R(3)(a)(ii) may be repaid at any time with funds collected during or after a regular legislative session.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

**Chapter 19. Lobbyist Disclosure Act
§1912. Notice to Persons Attempting to Do Business with Retirement Systems**

A. The chairman of the board of trustees of each state or statewide public retirement system shall provide a written notice to every person whom the chairman knows, or reasonably should know, has or is seeking to obtain a contractual or other business or financial relationship with his system, which shall include the following information:

1. the need to file disclosure statements pursuant to R.S. 42:1114.2 and a form to file the statement;
2. the gift restrictions in the Code of Governmental Ethics set out at R.S. 42:1115; and
3. the requirements of registration and disclosure pursuant to the Executive Branch Lobbying Law, R.S. 49:71 through 78.

B. By December 15 of each year, the board shall provide a sample notice to the chairman of each state or statewide public retirement system to assist the chairman in his responsibility.

C. Within 15 days of the chairman's dissemination of the notice required in Subpart A, he shall provide to the board a copy of the notice distributed, as well as the name and address of each person to whom the notice was sent.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

**EXECUTIVE LOBBYING
REGISTRATION FORM**

Executive Lobbyist Registration No.

2. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

3. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

4. Name _____

Address _____

Business or purpose _____

Does this person pay you? _____

If No, who pays you? _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Lobbyist

ATTACH
2" x 2"
PHOTOGRAPH
HERE

**EXECUTIVE LOBBYING
REGISTRATION/RENEWAL
ATTACHMENT FORM**

Executive Lobbyist Registration No. _____

- Instructions:**
- Please make as many copies of this form as necessary in order to complete Question 7 of the Executive Lobbying Registration/Renewal Form.
 - Fill in your Executive Lobbyist Registration No. in the space provided in the upper right hand corner of the page.
 - Please identify each page with a page number and indicate the total number of pages being submitted.

1. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
2. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
3. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
4. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____

Page _____ of _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§1915. Executive Lobbying Supplemental Registration

Executive Lobbyist Registration No.

EXECUTIVE LOBBYING SUPPLEMENTAL REGISTRATION FORM

Instructions

- Print in ink or type. Complete form and return to Board of Ethics, 2415 Quail Dr., 3rd Floor, Baton Rouge LA 70808, or fax to (225) 763-8787. For information or assistance, call (225) 763-8777 or (800) 842-6630. No fee is required. This form must be submitted within 5 days of any changes in your registration form or to add employers or those you represent. It must be submitted within 10 days of any termination of employment or representations.

FOR OFFICE USE ONLY Postmark Date: _____

1. NAME Last First MI

NAME CHANGE Last First MI

2. BUSINESS PHONE (Area Code) Phone Number

3. FAX PHONE

4. BUSINESS ADDRESS Street and No. City State Zip

MAILING ADDRESS Street and No. City State Zip

5. EMPLOYER

6. EMPLOYER'S ADDRESS Street and No. City State Zip

7. Have you ceased or terminated all lobbying activities requiring registration? Yes No

8. LIST BELOW (a) Names of persons, groups, or organizations which you are adding or eliminating; (b) the address of each such person, group, or organization listed; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby; and (e) the date of termination if applicable.

1) Name

Address

Business or purpose

New Representation Does this person pay you?

If No, who pays you?

Terminated Representation as of

**EXECUTIVE LOBBYING
SUPPLEMENTAL REGISTRATION FORM**

Executive Lobbyist Registration No. _____

2) Name _____

Address _____

Business or purpose _____

G New Representation

Does this person pay you? _____

If No, who pays you? _____

G Terminated Representation as of _____

3) Name _____

Address _____

Business or purpose _____

G New Representation

Does this person pay you? _____

If No, who pays you? _____

G Terminated Representation as of _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Lobbyist

- 4) Name: _____ EXEC.ID.# _____
 Last First MI
- 5) Name: _____ EXEC.ID.# _____
 Last First MI
- 6) Name: _____ EXEC.ID.# _____
 Last First MI
- 7) Name: _____ EXEC.ID.# _____
 Last First MI
- 8) Name: _____ EXEC.ID.# _____
 Last First MI
- 9) Name: _____ EXEC.ID.# _____
 Last First MI
- 10) Name: _____ EXEC.ID.# _____
 Last First MI

Pursuant to LSA-R.S. 49:76G(2)(a), _____
 (name of employer or principal) is exercising the option of filing expenditure reports
 for all executive lobbying expenditures made of my/its behalf by persons representing
 my/its interests during the year of _____. I hereby certify that the information
 contained herein is true and correct to the best of my knowledge, information and
 belief; and that no information required by LSA-R.S. 49:71 et seq. has been
 deliberately omitted.

Signature of Employer/Principal or Representative

Print of Type Full Name

§1919. Executive Lobbying Expenditure Report

Executive Lobbyist Registration No. _____

**EXECUTIVE LOBBYING EXPENDITURE REPORT
FORM 507**

G COVERING JANUARY 1 - JUNE 30, _____ - DUE AUGUST 15
**G COVERING JANUARY 1 - DECEMBER 31, _____ - DUE
FEBRUARY 15**

Mail to: the Board of Ethics, 2415 Quail Dr., 3rd Floor, Baton Rouge,
LA 70808
OR
Fax to: (225)763-8787 or (225)763-8780

FOR OFFICE USE ONLY

Postmark Date: _____

1. Name _____

2. Business Address _____

Street and No.
City
State
Zip

Mailing Address _____

Street and No.
City
State
Zip

2. Business Phone _____

Area Code and Telephone Number

4. Total of **all** executive lobbying expenditures made January 1 through June 30: \$ _____
(Include expenditures from Schedules A and B)

5. Total of all executive lobbying expenditures made July 1 through December 31: \$ _____
(When Applicable) (Include expenditures from Schedules A and B)

6. Total of all executive lobbying expenditures made during calendar year: \$ _____
(Line 4 added to Line 5 should equal Line 6)

7. Did you make an expenditure exceeding \$50 on one occasion for an executive branch official:

From January 1 through June 30?	Yes	G	No	G	
From July 1 through December 31?	Yes	G	No	G	NA G

If the answer to either question in Number 7 above is YES, complete Schedule A and attach.

8. Did you make expenditures exceeding the sum of \$250 for an executive branch official:

From January 1 through June 30?	Yes	G	No	G	
From July 1 through December 31?	Yes	G	No	G	NA G

If the answer to either question in Number 8 above is YES, complete Schedule A and attach.

9. Did you expend funds for any reception, social gathering, or other function to which more than twenty-five executive branch officials were invited during this reporting period?

	Yes	G	No	G	
--	-----	----------	----	----------	--

If the answer to Number 9 above is YES, complete Schedule B and attach.

EXECUTIVE LOBBYING EXPENDITURE REPORT

Executive Lobbyist Registration No. _____

10. PROVIDE BELOW (a) the name of the executive branch agency as listed in the executive branch schedule; (b) the aggregate total of all expenditures attributable to the agency made during the January 1-June 30 reporting period; (c) the aggregate total of all expenditures attributable to the agency made during the July 1-December 31 reporting period when applicable; (d) the aggregate total of all expenditures made in a calendar year attributable to the agency.

1) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

2) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

3) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; that all reportable expenditures have been included herein; and that no information required by LSA-R.S. 39:71 et seq. has been deliberately omitted.

Signature of Lobbyist

**EXECUTIVE LOBBYING EXPENDITURE REPORT
ATTACHMENT**

Executive Lobbyist Registration No. _____

Instructions:

- Please make as many copies as necessary to complete Item #10 of Your executive lobbying expenditure report.
- Fill in your executive lobbyist registration number in the space provided in the upper right hand corner of the page.
- Identify each page with a page number and indicate the total number of pages being submitted.

- 1) a. Name of Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 2) a. Name of Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 3) a. Name of Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____
- 4) a. Name of Agency: _____
- b. Total of all expenditures made January 1 through June 30: \$ _____
- c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
- d. Total of all expenditures made during the calendar year: \$ _____

Page _____ of _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

- 4) Name: _____
Last First MI
EXEC.ID.# _____
- 5) Name: _____
Last First MI
EXEC.ID.# _____
- 6) Name: _____
Last First MI
EXEC.ID.# _____
- 7) Name: _____
Last First MI
EXEC.ID.# _____
- 8) Name: _____
Last First MI
EXEC.ID.# _____
- 9) Name: _____
Last First MI
EXEC.ID.# _____
- 10) Name: _____
Last First MI
EXEC.ID.# _____

7. PROVIDE BELOW: (a) the aggregate total of all expenditures made by the principal/employer during the January 1-June 30 reporting period; (c) the aggregate total of all expenditures made by the principal/employer during the July 1-December 31 reporting period when applicable; (d) the aggregate total of all expenditures made by the principal/employer in a calendar year.

- a. Total of **all** executive lobbying expenditures made January 1 through June 30: \$ _____
(Include expenditures from Schedules A and B)
- b. Total of all executive lobbying expenditures made July 1 through December 31: \$ _____
(When Applicable) (Include expenditures from Schedules A and B)
- c. Total of all executive lobbying expenditures made during calendar year: \$ _____
(Line "a" added to Line "b" should equal Line "c")
8. COMPLETE AN ATTACHMENT FORM for each of your registered executive lobbyists.

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information and belief; and that no information required by LSA-R.S. 49:71 et seq. has been deliberately omitted.

Signature of Employer/Principal or Representative

Print or Type Full Name

E. PROVIDE BELOW (a) the name of the executive branch agency as listed in the executive branch schedule; (b) the aggregate total of all expenditures attributable to the agency made by this lobbyist during the January 1-June 30 reporting period; (c) the aggregate total of all expenditures attributable to the agency made by this lobbyist during the July 1-December 31 reporting period when applicable; (d) the aggregate total of all expenditures made by this lobbyist in a calendar year attributable to the agency.

1) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

2) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

3) a. Name of Agency: _____

b. Total of all expenditures made January 1 through June 30: \$ _____

c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)

d. Total of all expenditures made during the calendar year: \$ _____

8. PROVIDE BELOW (a) the name of the state or statewide public retirement system; (b) the aggregate total of all expenditures attributable to the retirement system made during the January 1-June 30 reporting period; (c) the aggregate total of all expenditures attributable to the retirement system made during the July 1-December 31 reporting period when applicable; (d) the aggregate total of all expenditures made in a calendar year attributable to the retirement system.

- 1) a. Name of Retirement System: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31:\$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____
- 2) a. Name of Retirement System: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31:\$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____
- 3) a. Name of Retirement System: _____
b. Total of all expenditures made January 1 through June 30: \$ _____
c. Total of all expenditures made July 1 through December 31: \$ _____
(When applicable)
d. Total of all expenditures made during the calendar year: \$ _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; that all reportable expenditures have been included herein; and that no information required by LSA-R.S. 42:1114.2 has been deliberately omitted.

Signature of Filer

Interested persons may direct their comments to R. Gray Sexton, Louisiana Board of Ethics, 2415 Quail Drive, 3rd Floor, Baton Rouge, LA 70808, telephone (225) 763-8777, until 4:45 p.m. on October 11, 2004.

R. Gray Sexton
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Receipt of Campaign Funds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the rules/amendments is \$6, 123 in FY 04-05, \$211 in FY 05-06 and \$211 in FY 06-07, which accounts for the cost to publish the Notice of Intent and the rules in the *Louisiana Register* and printing of the promulgated forms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules/amendments will have no anticipated effect on revenue collections of state or local governmental units.

R.S. 49:78 provides that any person who violates a provision of R.S. 49:71 et seq. will be assessed a penalty of up to \$10,000. R.S. 49:78 also provides that any person who does not timely register or file shall be assessed a penalty of \$50 per day, up to a maximum of \$1,500. It is not known if any people will violate provision of the act or how many people will register or file reports late.

R.S. 42:1114.2 provides that any person who does not timely file a report pursuant to said provision is assessed a per day penalty of \$100, up to a maximum of \$2,500. It is known how many people will file such reports late.

For a violation of R.S. 18:1505.2Q, R.S. 18:1505.5 provides that a penalty not in excess of \$500 shall be imposed on a governor or in excess of \$300 for a legislator. It is not known if any people will violate a provision of the act.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Those persons submitting the registration form are required to pay a registration fee of \$110 pursuant to R.S. 49:71, et seq. Also, where applicable, the following fines/penalties can be assessed:

R.S. 49:78 provides that any person who violated a provision of R.S. 49:71 et seq. will be assessed a penalty of up to \$10,000. R.S. 49:78 also provides that any person who does not timely register or file shall be assessed a penalty of \$50 per day, up to a maximum of \$1,500. It is not known if any people will violate a provision of the act or how many people will register or file reports late.

R.S. 42:1114.2 provides that any person who does not timely file a report pursuant to said provision is assessed a per day penalty of \$100, up to a maximum of \$2,500. It is not known how many people will file such reports late.

For a violation of R.S. 18:1505.2Q, R.S. 18:1505.5 provides that a penalty not in excess of \$500 shall be imposed on a governor or in excess of \$300 for a legislator. It is not known if any people will violate a provision of the act.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules/amendments will not have an effect on competition and employment.

Maris E. Leblanc
Deputy General Counsel
0409#042

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation, and Tourism
Office of State Museums**

Building Rental Fees (LAC 25:III.103)

The Department of Culture, Recreation and Tourism, Office of State Museums, proposes to amend/change the following Rule relative to building rental fees for state museum buildings, per authority of R.S. 25:342. The purpose of amendment/change is to adjust and align building rental use fees for state museum buildings to that of similar type and size buildings housing the same types of activities in the area. Baton Rouge, Louisiana Branch Museum and the E.D. White Historic Site in Thibodaux are included due to addition to the museum by legislative action.

Title 25

CULTURAL RESOURCES

PART III. Office of State Museums

Chapter 1. Public Access

§103. Building Rental Policy

A. The Louisiana State Museum is responsible for the preservation and maintenance of the historic buildings placed in its care and the irreplaceable collections items contained within these buildings. In order to meet this responsibility, the board of directors of the Louisiana State Museum has adopted the following policy for use of the museum's statewide facilities for functions or events not sponsored by the Louisiana State Museum.

1. Requests for Usage. Requests for the use of state museum buildings will be considered from:

a. nonprofit organizations with purposes similar to the educational and historical museum purposes of the Louisiana State Museum;

b. official governmental agencies for governmental functions or events;

c. groups or companies whose proposed usage does not involve merchandising or political promotion or fundraising and whose usage is, in the opinion of the Museum Board of Directors, not in conflict with the purpose of the Louisiana State Museum. Certain types of parties, such as wedding receptions, retirement parties and private individual parties are usually of a nature that could cause damage to the museum buildings and/or the irreplaceable collections within the buildings, therefore these types of functions/events will normally not be approved.

2. Procedures

a. Requests will be considered from eligible organizations/agencies/groups/companies:

- i. for receptions, dinners, and similar functions occurring during non-public hours (after 5 p.m.);
- ii. for business meetings, lectures, and/or slide presentations occurring during non-public hours (after 5 p.m.);
- iii. for business meetings, lectures, and slide presentations occurring during public hours.

b. Numbers for consideration of each type function as stated in a. above will not exceed the maximum building capacity as stated below.

i. Baton Rouge Museum

Reception after hours:	775
Meetings after hours:	200
Meeting during public hours:	200

ii. Cabildo/Presbytere/Old U.S. Mint

Reception after hours:	500
Meetings after hours:	200
Meeting during public hours:	100

iii. Madame John's Legacy/The Arsenal

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

iv. Patterson Museum

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

v. Natchitoches Museum

Reception after hours:	200
Meetings after hours:	200
Meeting during public hours:	100

vi. E.D. White Historic Site

(a). Due to the size of the house, access during public hours is limited to no more than 20 persons at a time with purchased admissions.

(b). Access to the house after hours is limited to no more than 20 persons at a time viewing the house as part of rental of the grounds. Rental of the grounds will not be considered for more than 100 persons.

c. The Director of the State Museum is authorized to approve usage of museum buildings within the provisions of this policy, in addition to all museum-sponsored programs/functions/activities.

d. Requests for usage of the buildings that do not clearly come within this policy will be submitted to the State Museum Board of Directors, Executive Committee for a recommendation for final action by the board of directors.

e. The Museum Board of Directors will deny an application if, in the board's opinion, the proposed usage would endanger the museum's building and/or collections, or

interfere with its exhibitions and/or other programs/activities.

f. The Museum Board of Directors may waive the donation portion when the board determines that to do so would be in the best interest of the museum. However, the base service charge fees will not be waived for non-museum functions.

g. The base service charge fees are established based on the museum's cost of all security, custodial, utilities, and administrative support required to service previous functions of the same size.

i. The state museum may, at its discretion, make additional charges based on the nature of the requested function and/or additional requirements as agreed upon. Such additional charges will be included in the written agreement.

h. All building usage requests must be submitted in writing (at least 30 days prior to the date of the functions is preferred) to allow for proper planning, coordination, and completion of all required paperwork, including but not limited to the required written agreement.

i. All rentals will be based on a written agreement which will specify all costs and fees, arrangement requirements, and the specific space to be used in the specified building. Certain spaces in each building may be designated as being not available for rental use. The agreement must be completed and signed by both the designated representative of the museum and the renting organization/group, at least 10 days prior to the date of the function.

j. The host organization must make arrangements with the caterer of their choice, however, the museum reserves the right to reject caterers that do not comply with the museum's instructions concerning proper care of museum facilities. The museum does not provide or recommend catering services.

k. The museum will not provide parking facilities to the host organization. The host organization is responsible for its own parking arrangements.

l. The museum will not remove collections/exhibition items to accommodate the host organization.

m. Smoking is prohibited in all museum buildings.

n. The host organization/agency will designate an authorized representative to be present at the function and to have decision-making authority. This representative will be responsible for all coordination with the state museum.

o. If, after the completion of the function, the actual number of persons in attendance exceeded the planned number, or the time and space used was greater than planned, the host organization will be billed for the additional fees in accordance with the provisions of this policy.

p. A deposit of not less than 50 percent of the total indicated in the written agreement will be paid by the host organization to the museum at least one week prior to the date of the function. The balance and any additional charges required will be payable upon billing by the museum, following the function/event.

q. Host organizations will be charged the total costs involved in any repairs necessary to the museum building, collections, or exhibitions that are the result of the rental.

These charges will be in addition to all other charges and fees and will be payable immediately upon notification.

r. A function request which would require the closing of any portion of the museum prior to its normal closing time will be charged an additional gate fee of \$250 per hour for the period closed during public hours.

i. This requirement request must be agreed to in advance by the museum director and be included in the written agreement, otherwise it will be considered as a disapproval of the request.

s. The museum does not provide special equipment or tables for a sit-down type dinner or other after hours events. The organization renting the building is responsible for arrangements for such equipment. However, the museum must approve all equipment prior to the function/event.

3. Rates. Established rates apply to the buildings as indicated. Only buildings that are open to the public and/or available for use at the time of the request will be considered.

a. Donation. All applicants eligible under Subparagraph 1.c above will donate a gift to the Louisiana State Museum fund in the foundation designated for state museum use as endowment, education, acquisition, publications, conservation and building function support purposes. The museum must get prior approval of the legislative joint committee on the budget before making expenditures of funds generated by these donations.

i. Donations will be in accordance with the following schedule.

Location	Building	Rate (3 hrs.)	Each Additional Hour
Baton Rouge	Museum	\$3,000	\$1,000
New Orleans	Cabildo	\$3,000	\$1,000
New Orleans	Presbytere	\$3,000	\$1,000
New Orleans	Old U.S. Mint	\$3,000	\$1,000
New Orleans	Arsenal	\$1,500	\$ 500
New Orleans	Mme. John's Legacy	\$1,500	\$ 500
Patterson	Museum	\$1,500	\$ 500
Natchitoches	Museum	\$1,500	\$ 500
Thibodaux	Historical Site with Grounds	\$1,000	\$ 350

NOTE: Time will be rounded to the next quarter hour for determination of donation requirements above the initial three hour gift rate.

b. Base Service Charge Fees **C**All Buildings.

i. Business meetings, lectures, slide presentations:

- (a) 9 a.m.-5 p.m., maximum 100 persons:
 - (i). 1-4 hours \$400;
 - (ii). 4-8 hours, \$600
- (b) After 5 p.m., maximum 200 persons

Guests	First Hour	Each Additional Hour
1-100	\$400	\$100
101-200	\$650	\$150

(c) Minimum fee in (a) and (b) above is \$400.

(d) An additional cleaning and repair fee of \$200 during public hours and \$300 during non-public hours will be charged for costs involved in preparation and post-function requirements.

ii. Receptions and Similar Functions. After 5 p.m., maximum numbers to be considered are as established

in Subparagraphs 2.a and b above, per designated building. Minimum requirement will be one hour plus set-up and cleaning.

Guests	First Hour	Each Additional Hour
1-200	\$600	\$150
201-300	\$700	\$200
301-500	\$800	\$250

(a). An additional cleaning repair fee of \$300 will be charged for costs involved in preparation and post-function responsibilities.

iii. Sit-Down Dinner. After 5 p.m., maximum 100

Guests	First Hour	Each Additional Hour
1-100	\$800	\$300

(a). An additional cleaning repair fee of \$500 will be charged for costs involved in preparation and post-function requirements.

(b). All sit-down dinners must be catered to include waiters serving dinners to each table. The ratio of waiters to diners must be at least 1 to 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museums, LR 11:683 (July 1985), amended LR 13:83 (February 1987), LR 16:295 (April 1990), LR 20:783 (July 1994), LR 24:2233 (December 1998), LR 30:

Family Impact Statement

1. The proposed Rule will not affect the stability of the family.
2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.
3. This Rule will not affect the functioning of the family.
4. This Rule will not affect the family earning or family budget.
5. This Rule will not affect the behavior or personal responsibility of children.
6. No the action proposed is strictly a State function.

Written comments may be addressed to Robert E. Wheat, Assistant Secretary, Department of Culture, Recreation and Tourism, P.O. Box 2448, New Orleans, LA, 70176-2448.

Robert E. Wheat
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Building Rental Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated implementation costs or savings to state or local governmental units. The proposed rule aligns current rental fees with those of similar activity in the area and adjusts rates according to building size.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As a result of this rule change, it is anticipated the Office of State Museum will generate an additional \$20,000 in the

current fiscal year and approximately \$40,000 of self generated revenue annually thereafter.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individual patrons/organizations renting museum buildings will be the only entities affected by the new fees. The new fee structure brings the State Museum's fees to closer alignment with that of other comparable attractions in the localities and around the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No anticipated effect on employment. Places state museum more in competition with organizations engaged in similar activity.

Tamra Carboni Deputy Assistant Secretary 0409#093
 Robert E. Hosse General Government Section Director Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation, and Tourism
 Office of State Museums**

Museum Fees (LAC 25:III.105)

The Department of Culture, Recreation, and Tourism, Office of State Museums proposes to amend the following Rule relative to admissions fees to buildings of the Louisiana State Museum system, per authority of R.S. 25:342. The purpose of the amendment is to establish fees for museums recently added to the State Museum system by Legislative action and to align all museum building admission fees to that of similar types of activities and attractions throughout the state.

**Title 25
 CULTURAL RESOURCES**

PART III. Office of State Museums

Chapter 1. Public Access

§105. Admissions Fees

A. Admission fees for single admissions to the Louisiana State Museum buildings are as indicated.

B. Combination admissions may be purchased by selecting two or more buildings, to which a 20 percent discount will be applied. Visitor may select from any Louisiana State Museum listed building.

C. Special or group tour rates and requirements for Louisiana State Museum buildings are as indicated.

1. There must be a minimum of 15 persons in the group or tour which are old enough to require an admissions fee.

2. Groups/tours should make advance arrangements by calling the following telephone numbers.

- New Orleans (504) 568-6968 or 1-800-568-6968
- Patterson (985) 395-7067
- Thibodaux (985) 395-7067
- Natchitoches (318) 357-2270
- Baton Rouge (225) 219-0715

3. Groups/tours which meet the criteria in Paragraph C.1. above will be discounted by 20 percent from the appropriate single building rate.

D. School Groups

1. Must be affiliated with a recognized public or private school system.

2. Must be accompanied by at least one chaperon per every five children as a minimum, these chaperons will be admitted free, up to one per every five children. Additional chaperons will be required to pay the admission fee.

3. Prefer advance arrangements be made to accommodate scheduling. For advance arrangements, call:

- New Orleans (504) 568-6968 or 1-800-568-6968
- Patterson (985) 395-7067
- Thibodaux (985) 395-7067
- Natchitoches (318) 357-2270
- Baton Rouge (225) 219-0715

4. School groups admitted free when criteria stated above is met.

E. Visitors may choose from any/all museum buildings which are open to the public on the date of the visit.

F. Scheduling/reserving a visit to any State Museum building may be done using the 1-800-568-6968 number, from any location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Dept. of Culture, Recreation and Tourism, Office of the State Museum, LR 12:89 (February 1986), amended LR 13:82 (February 1987), LR 20:784 (July 1994), LR 24:2235 (December 1998), LR 30:

Family Impact Statement

1. The proposed Rule will not affect the stability of the family.

2. The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. This Rule will not affect the functioning of the family.

4. This Rule will not affect the family earning or family budget.

5. This Rule will not affect the behavior or personal responsibility of children.

6. No the action proposed is strictly a State function.

Written comments may be addressed to Robert E. Wheat, Acting Assistant Secretary, Department of Culture,

Building	Location	Adult Single Building	Student, Senior Citizen, Active Military, Single Building	12 Years of Age and Under
Cabildo with Arsenal	New Orleans	\$6	\$5	Free
Presbytere	New Orleans	\$6	\$5	Free
Old U.S. Mint	New Orleans	\$6	\$5	Free
Louisiana State Museum				
Baton Rouge	Baton Rouge	\$6	\$5	Free
1850 House	New Orleans	\$3	\$2	Free
Madame John's Legacy	New Orleans	\$3	\$2	Free
Louisiana State Museum				
Patterson	Patterson	\$3	\$2	Free
Louisiana State Museum				
North Louisiana	Natchitoches	\$3	\$2	Free
E.D. White Historic House	Thibodaux	\$2	\$1	Free

Robert E. Wheat
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Museum Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no additional cost as a result of this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
As a result of this rule change, it is anticipated that the Office of State Museum will generate an additional \$67,000 in the current fiscal year and approximately \$260,000 of self generated revenue annually thereafter.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Individual patrons/visitors to the State Museum will pay an additional \$1.00 for large buildings. The new fee structure brings the State Museum's fees to closer alignment with that of other comparable attractions in the localities and around the state.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No anticipated effect on employment. Places state museum more in competition with other non-profits of similar activity.

Tamra Carboni Deputy Assistant Secretary 0409#092	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

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

Scholarship/Grant Programs 2004 Legislation
(LAC 28:IV. 301, 501, 504, 505, 509,
703, 803, 1903, 2107, 2301-2313)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

A. Where the masculine is used, in these Rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Award Year - The academic year (college) or program year (non-academic program) during which a TOPS award is paid.

* * *

Eligible Non-Graduate - A student who has not graduated from high school or completed a home study program approved by BESE, but who meets all the criteria listed in §703.A.5.g.

* * *

Louisiana Resident

a. - f. ...

g. effective for high school graduates of Academic Year (High School) 2001-2002 and 2002-2003, any dependent student who was continuously enrolled in a Louisiana public high school or nonpublic high school that is approved by BESE during his last two full years of high school, whose parent or court ordered custodian:

- i. is a resident of a state that adjoins Louisiana, and;
- ii. actually resides in a county that adjoins a Louisiana parish having a population greater than 41,600 and less than 42,400 according to the federal 2000 census, and
- iii. has filed a Louisiana state income tax return and complied with state income tax laws and regulations; or
- iv. is assessed ad valorem taxes on property owned in Louisiana.

In order to qualify pursuant to this Subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (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 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:2015 (September 2004), LR 30:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§501. Initial Application

A. - A.2.c. ...

B. Initial Application for a TOPS Award for High School Graduates and Home Study Completers of 2003-2004 and Thereafter, and Eligible Non-Graduates.

1. - 2.f. ...

3. Eligible Non-Graduates must:

- a. submit a Free Application for Federal Student Aid, (FAFSA), or
- b. if the student can demonstrate that he does not qualify for federal grant aid because of his family's financial

condition, submit the initial FAFSA after completing all applicable sections except those sections related to the income and assets of the student and the student's parents, or

- c. complete an On-Line Application.

4. Applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the on-line application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be ineligible for federal grant aid and federally guaranteed student loans.

5. In the event of a budgetary shortfall, applicants for TOPS Opportunity, Performance and Honors awards and TOPS Tech awards who submit the On-Line Application in lieu of the FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 24:635 (April 1998), repromulgated LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 30:2015 (September 2004), LR 30:

§504. Out-of-State and Out-of-Country High School Graduates and Eligible Non-Graduates

A. A student who graduates from a high school outside the state of Louisiana or is an Eligible Non-Graduate will not be considered for a TOPS award unless LASFAC receives the student's FAFSA information from the federal processor or On-Line Application and the student's ACT and/or SAT score(s). In order for a student who will graduate from a high school outside the state of Louisiana or an Eligible Non-Graduate to assure that his FAFSA information and his ACT/SAT score(s) are received by LASFAC, he should:

1. enter a Louisiana postsecondary institution in the section of the FAFSA that asks the applicant to name the colleges he plans to attend; and

2. enter a Louisiana postsecondary institution and/or 1595 (code for the Louisiana Tuition Opportunity Program/Students, Baton Rouge, LA.) in the "score report choices" section of the ACT and/or 9019 (code for Tuition Opportunity Program for Students) in the "send scores" section of the SAT registration form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 30:2017 (September 2004), amended LR 30:

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

A.1. To be considered for a TOPS award, students who graduate from high school or complete an approved home study program in 2004 or later and eligible non-graduates must:

- 1.a. - 3. ...

B. Deadline for Priority Consideration

1. In order for students who enroll for the first time as full-time students at an eligible college or university to ensure timely consideration and the earliest possible

eligibility determination for the initial semester of enrollment, the FAFSA or the on-line application must be submitted so that it is received no later than May 1 of the year prior to the academic year (college) the student first enrolls in an eligible college or university.

2. In order for returning students to ensure timely consideration and the earliest possible eligibility determination for the initial semester of enrollment at an eligible college or university, the FAFSA or the on-line application must be received no later than May 1 prior to the academic year (college) the student first enrolls in an eligible college or university.

B.3. - G. ...

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 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 30:

§509. ACT Testing Deadline

A.1. The student must take the official ACT test (including national, international, military or special test types) on or before the official April test date in the academic year (high school) in which the student graduates or completes a home study program approved by BESE

2. An eligible non-graduate must take the official ACT test (including national, international, military or special test types) before the first day of the semester the student first enrolls in an eligible college or university.

B.1. 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.

2. An eligible non-graduate may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken before the first day of the semester the student first enrolls in an eligible college or university. In order to substitute an 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 - C.1.c. ...

- d. Tests taken by an eligible non-graduate after the first day of the semester the student first enrolls in an eligible college or university shall not be accepted.

C.2. - 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 26:2000 (September 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), repromulgated LR 27:1847 (November 2001), amended LR 30:1159 (June 2004), LR 30:

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

§703. Establishing Eligibility

A.1. - 5.a.i.(a). ...

(b). Beginning with the graduates of academic year (high school) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)
1	An elective from among other math or science subjects listed in this core curriculum
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the ½ unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1 credit) Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Introduction to Business Computer Applications (1 credit) Multimedia Productions (1 credit) Technology Education Computer Applications (1 credit) Telecommunications (1/2 credit) Web Mastering (1/2 credit) Word Processing (1 credit) Independent Study in Technology Applications (1 credit)

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

i.. successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

iii. if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school; or

e. graduate from a high school defined in §1701.A.5 or successfully complete at the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories; or

f.i. for students graduating in Academic Years (High School) 2000-2001 and 2001-2002, successfully complete a minimum of ten units in honors courses graded on a 5.00 scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i.; or

ii. for students graduating Academic Year (High School) 2002-2003 through 2005-2006, successfully complete a minimum of ten units in Honors Curriculum Courses used to satisfy the core curriculum requirement and graded on a 4.00 or higher scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i.; or

g. beginning with the 2004-2005 Award Year, Eligible Non-Graduates who meet the following criteria:

i. be a United States citizen or be a permanent resident as defined by the United States Citizenship and Immigration Services and be eligible to apply for United States citizenship meet the requirements of §703.A.3, above; and

ii. actually reside in Louisiana for at least two years prior to the student's first enrollment in an Eligible College or University; and

iii. as certified by a psychologist or psychiatrist licensed to practice in Louisiana, the student has a score that is at least in the superior range on the Wechsler Intelligence Scale for Children (Third Edition) or revised version of such instrument; and

iv. as certified by a psychologist or psychiatrist licensed to practice in Louisiana, the student has a composite score that is at least at the ninetieth percentile at the twelfth grade level in the reading, mathematics, and written language portions of the Wechsler Individual Achievement Test (Second Edition) or revised version of such test; and

v. prior to enrolling for the first time in an Eligible College or University, the student's score on the ACT must meet the requirements of §703.A.6.a., as specified for the respective award, or have an equivalent score on the Scholastic Aptitude Test; and

vi. before the student's nineteenth birthday:

(a). enrolls in an Eligible College or University and successfully earns twelve hours of course credits; and

(b). enrolls in an Eligible College or University as a Full-Time Student to pursue an academic undergraduate degree at the baccalaureate level; and

vii. after meeting all the requirements in §703.A.5.g.i. through vi, the student will qualify for a TOPS award.

6. Have achieved an ACT Score, as defined in §301 of at least:

a. if qualifying under the terms of §703.A.5.a, b, or g;

i. the state's reported prior year ACT composite average, rounded, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

A.6.b - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330 and 2332 (November 2002), LR 29:125 (February 2003), LR 30:2019 (September 2004), LR 30:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.5.d.iii. ...

6. if qualifying under the terms of §803.A.5.a., at the time of high school graduation:

a. have successfully completed one of the following core curriculums:

i. 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. and documented on the student's official transcript as approved by the Louisiana Department of Education; or

ii. for students graduating in the 2000-2001 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-TECH core curriculum.

Core Curriculum C TOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute one unit of Business English.
1	Algebra I; or both Algebra I, Part I and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II.
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Discrete Mathematics, or Probability and Statistics (two units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the three required math units.
1	Biology.
1	Chemistry or Applied Chemistry.

Units	Course
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for one unit).
1	American History.
1	World History, Western Civilization, or World Geography.
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic).

Remaining core courses shall be selected from one of the following options:

Option 1	Total of 17 units.
1	Fine Arts Survey or substitute two units of performance courses in music, dance, or theater; or substitute two units of visual art courses; or substitute two units of studio art courses; or a course from the career and technical program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute one unit as an elective from among the other subjects listed in this core curriculum.
2	Foreign Language, Technical Writing, Speech I or Speech II.
1	One unit from the secondary computer education program of studies that is approved by the BESE.
or	
Option 2	Total of 19 Units
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

or

iii. For students graduating through the 2001-2002 school year, the TOPS-TECH core curriculum as follows.

Core Curriculum C TOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for one unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)

Units	Course
2	In a single Foreign Language. (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

6.b. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:2019 (September 2004), LR 30:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - B.8. ...

9. Unless otherwise directed by the student, before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 10871l, as amended, for the purpose of qualifying the student or his parent or custodian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - D2.b. ...

3. for Tuition Payment Program for Medical School Students:

a. verify enrollment at one of the Louisiana State University Health Sciences Center medical schools or at the Tulane University School of Medicine; and

b. verify the recipient is in good standing; and

c. verify the student has continued to make satisfactory progress towards a medical degree in a primary care field.

4. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the Rockefeller State Wildlife Scholarship, TOPS Teacher Award and Tuition Payment Program for Medical School Students must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998),

amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions §2107. Funding and Fees

A. - D. ...

E. Repealed.

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

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 30:

Chapter 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281 of the 1997 Regular Session of the Louisiana Legislature and amended by Act 894 of the 2004 Regular Session of the Louisiana Legislature.

B. Description, History and Purpose. The Tuition Payment Program for Medical School Students:

1. annually awards not more than ten monetary loans to eligible students attending a medical school of the Louisiana State University Health Sciences Center and not more than five monetary loans to eligible students attending the Tulane University School of Medicine who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least five consecutive years in a rural or medically disadvantaged area in Louisiana designated by the Louisiana State University Health Sciences Center, acting jointly with the Tulane University School of Medicine, (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for five consecutive years as provided in these rules, the loans are forgiven in full.

2. was first funded for the 1998-99 award year;

3. The Legislature's purpose for this program is to bring about an adequate supply of doctors of medicine who will engage in the general practice of medicine in the rural or medically disadvantaged areas of the state by inducing a sufficient number of the graduates from the Louisiana State University Health Sciences Center and the Tulane University School of Medicine to remain in or relocate to Designated Areas of Louisiana to practice their profession, thus affording adequate medical care to the people of Louisiana.

C. Award Amounts

1. Loans for students enrolled at one of the Louisiana State University Health Sciences Center medical schools shall be made in an amount not to exceed the full tuition and room and board amount for that school. Loans for students enrolled at the Tulane University School of Medicine shall be made in an amount not to exceed the tuition and room and board amount for a student enrolled at the most expensive medical school of the Louisiana State University Health Sciences Center.

2. Recipients may receive funding for each year of enrollment at an eligible medical school, until awarded a doctorate degree in medicine.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1460 (August 1999) amended LR 25:2177 (November 1999), repromulgated LR 27:1872 (November 2001), LR 30:

§2303. Establishing Eligibility

A.1. - 3. ...

4. be enrolled at one of the Louisiana State University Health Sciences Center medical schools or in the Tulane University School of Medicine as a Full-Time Student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field or has earned such a degree prior to commencement of residency. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice.

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least five consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.A.4, above; and

6. - 6.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) amended LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), amended LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 30:

§2305. Application Process and Selection Criteria

A. The Louisiana State University Health Sciences Center and the Tulane University School of Medicine shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the Commission, no later than the date specified by the Commission:

1. the academic standing of those applicants who meet the prerequisites of §2303.4 and 5. In determining the academic standing of applicants, the Louisiana State University Health Sciences Center and the Tulane University School of Medicine shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend, and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been identified by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the lists of applicants submitted by the Louisiana State University Health Sciences Center and the Tulane University School of Medicine, the Commission shall rank the applicants in order of merit and select no more than ten individuals to receive the award in any one year to attend one of the Louisiana State University Health Sciences

Center medical schools and no more than five individuals to receive the award in any one year to attend the Tulane University School of Medicine (hereinafter "Recipient(s)"). The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the Recipient as described in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), repromulgated LR 27:1872 (November 2001), LR 30:

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein.

B. The loan disbursement will be in two increments during each academic year based upon requests for disbursements submitted by the Louisiana State University Health Sciences Center or by the Tulane University School of Medicine, which are consistent in timing with the normal payment of tuition by medical school students.

C. ...

D. The cost of room and board included in an award under this section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 1087 11 for the highest cost Louisiana State University Health Sciences Center medical school.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), amended LR 26:2754 (December 2000), repromulgated LR 27:1873 (November 2001), amended LR 30:

§2309. Maintaining Eligibility

A. To continue receiving the Tuition Payment for Medical School Students, Recipients must meet all of the following criteria:

1. have not graduated from medical school ; and

2. be considered in good standing by the Louisiana State University Health Sciences Center or the Tulane University School of Medicine and continue to make satisfactory progress towards a medical degree in a primary care field or have completed studies in good standing; and

3. - 5. ...

B. Upon receiving a doctorate degree in medicine, an award Recipient will be continued in a deferred payment status under the terms of the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note") as long as the Recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The Recipient shall notify LASFAC of the place and duration of the Recipient's residency program no later than the date the Recipient receives a doctorate in medicine. The notice shall include an endorsement from the Louisiana State University Health Sciences Center or its designee or from the Tulane University School of Medicine or its designee that the residency program is a program that will lead to the ability

to practice as a primary care physician as defined herein. The Louisiana State University Health Sciences Center or the Tulane University School of Medicine shall make available to the Recipient a list of Designated Areas. The Recipient shall identify the Designated Area in which the Recipient intends to practice medicine and include this selection in the notice sent to LASFAC. By July 30 of each year following receipt of a doctorate degree in medicine, the Recipient shall notify LASFAC of the Recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the Recipient is engaged that the Recipient is making satisfactory progress in the program. The Recipient shall notify LASFAC in writing of the completion of the residency program and the date the Recipient will initiate practice in a Designated Area. Each year thereafter, on the anniversary of the date the Recipient enters a primary care practice in a Designated Area, the Recipient shall send a written confirmation to LASFAC that the Recipient has practiced medicine during that year as required under the terms of the Promissory Note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the Recipient has practiced in a Designated Area. Failure of the Recipient to send any of the notices required under the terms of the Promissory Note in a timely manner shall cause the Recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for a subsequent year of the loan will be placed in a repayment status six (6) months from the date of their loss of eligibility, unless granted an exception for cause by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), LR 26:2754 (December 2000), repromulgated LR 27:1873 (November 2001), amended LR 28:777 (April 2002), LR 30:

§2311. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the Recipient must agree to the terms and conditions contained in and execute the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note"). The Promissory Note obligates the Recipient to initiate a primary care practice in a Designated Area upon the completion of a primary care residency program. The Recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full-time practice of medicine as a primary care physician in a Designated Area within six months from the date of completion of the residency program. The Designated Area in which the Recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other Designated Area chosen by the Recipient, upon completion of the residency program. The Promissory Note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer a "Designated Area at the time the Recipient finishes the residency program, it shall continue to be considered a Designated Area for purposes of discharge of the loan amount under these rules. The Recipient shall be deemed to be in a full-time primary care

practice if the Recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a Recipient fail to enter into the practice of medicine on a full-time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and double the amount of the loans shall be repaid together with all accrued interest and any collection costs incurred by the Commission, as specified in the Promissory Note and as required by §2313, below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), repromulgated LR 27:1874 (November 2001), LR 30:

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full-time primary care medical practice in a Designated Area for a period of five years, by monetary repayment or by cancellation.

B. - B.1. ...

2. practice as a primary care physician on a full time basis for a period of at least five consecutive years in a Designated Area.

C. ...

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the Promissory Note and who are not eligible for discharge by cancellation must immediately repay double the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

D.1. - E.1.c. ...

2. determination that a recipient has entered repayment status, LASFAC will send written notice of the recipient's repayment status including the total amount of tuition that must be repaid, the amount of interest accrued and instructions for repayment.

3. The recipient must repay double the amount of the total tuition disbursed no later than thirty days from the date of the written notice of the recipient's repayment status. Accrued interest may be amortized in accordance with §2313.E.4.

4. the amount to be repaid annually will be the greater of:

a. the amount necessary to amortize the accrued loan interest, together with accruing interest, within five years; or

b. \$5,000 per year or the unpaid balance, whichever is less;

5. Recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferment of Repayment Obligation;

6. during the period of time a Recipient is in a deferment status, a Recipient is not required to make payments and interest does not accrue;

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the Recipient is in deferment status.

F. Cancellation. The obligation to repay any remaining unpaid balance of the Promissory Note shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the Recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the Recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15 and 17:3041.21-3041.26.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25: 1463 (August 1999), LR 25:2177 (November 1999). Repromulgated LR 27:1874 (November 2001), amended LR 30: (September 2004).

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 11, 2004, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant
Programs 2004 Legislation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

These amendments to the Scholarship and Grant Rules implement the following Acts of the 2004 Regular Session of the Louisiana Legislature: Act 472, Act 507, Act 800 and Act 804, which amend the Tuition Opportunity Program for Students and Act 894, which revises the Tuition Payment Program for Medical School Students. The Fiscal Note for Act 472 does not anticipate additional costs for the agency. The Fiscal Note for Act 507 indicates an increase in costs by an unknown amount. The Fiscal Note for Act 800 indicates an increase in costs by an unknown amount. Based on the number of 2003 graduates who had earned Agriscience I and II, the Fiscal Office estimated that an additional \$278,000 might be necessary in the first year. The Fiscal Note for Act 804 indicates a cost of \$15,000 for the first year, \$7,5000 the second and third years and no cost thereafter. The fiscal Note for Act 894 indicates a cost of \$450, 000 the first year, \$468,000 the second year, \$487,000 the third year, \$506,000 the fourth year and \$526,000 the fifth year. This Act was not funded.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated effects on revenue collections of state or local governmental units resulting from these measures.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The 2004 Acts make various changes to aspects of the TOPS program that affect both existing and future TOPS recipients. To the extent that these acts may make additional students eligible for TOPS Awards, such students will benefits from payment of some or a portion of their college costs of attendance.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There are no estimated effects on competition or employment resulting from these measures.

George Badge Eldredge
General Counsel
0409#010

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving)
Program Education Savings Account
(LAC 28:VI.107 and 311)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program Rules (R.S. 17:3091 et seq.).

The 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 Financial Assistance—Higher
Education Savings**

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

Deposits The actual amount of money received from an account owner for investment in an education savings account. Deposits do not include earnings on deposits nor earnings enhancements or interest earned thereon.

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 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:566 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:

Chapter 3. Education Savings Account

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

A. - C.1. ...

2. All other requests for refund will result in the termination of the account and in the refund of:

a. the deposits invested in fixed earnings, if the account has been open for less than twelve months;

b. the redemption value, if the account has been open for 12 or more months;

c. the deposits or the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, whichever is less, if the account has been open for less than twelve months;

d. the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, if the account has been open for twelve or more months.

C.3. - H. ...

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), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002) LR 30:790 (April 2004), LR 30:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 11, 2004, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program Education Savings Account

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These rules are required to implement Act 329 of the 2004 Regular Session of the Louisiana Legislature, which modified the Student Tuition Assistance and Revenue Trust (START) Program. This Act revised the statute to limit refunds for accounts open for less than twelve months to "the amount of the deposits or the current value of the account, whichever is less." Other than the costs of rulemaking, there should be no implementation costs or savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on directly affected persons or nongovernmental groups is anticipated to result from this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

George Badge Eldredge
General Counsel
0409#011

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Accident Prevention Regulations Incorporation by Reference
(LAC 33:III.5901)(AQ245*)

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 regulations, LAC 33:III.5901 (Log #AQ245*).

This proposed Rule is identical to federal regulations found in 69 FR 18819-18832, April 9, 2004, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule change incorporates by reference amendments published in the *Federal Register* to "Accidental Release Prevention Requirements: Risk Management Program Requirements Under Clean Air Act Section 112(r)(7)"; Amendments to the Submission Schedule and Data Requirements. EPA made several changes to the reporting requirements of the accident prevention regulations. Provisions of these changes may be operative before the department proceeds with its annual incorporation by reference in 2005. This action is required to keep the federal and state rules consistent with one another. The basis and rationale for this Rule are to mirror the federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2003. Also incorporated by reference are amendments to EPA rule entitled "Accidental Release Prevention Requirements: Risk Management Program Requirements Under Clean Air Act Section 112(r)(7)"; Amendments to the Submission Schedule and Data Requirements, promulgated on April 9, 2004, in the *Federal Register*, 69 FR 18819-18832.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 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), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:

A public hearing will be held on October 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ245*. Such comments must be received no later than October 25, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ245*. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

0409#085

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Records Confidentiality/Increase in Penalty Fees (LAC 33:I.503, 505, 507, and 705)(OS060)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.503, 505, 507, and 705 (Log #OS060).

This proposed Rule amends the regulations regarding the confidentiality of public records. Records processing, requests for confidentiality, and confidential information availability are clarified. This proposed Rule also reflects an increase in the penalty fee for a major violation event and corrects the statutory maximum in circumstances where the penalty event constitutes a violation of a previous enforcement action. The increase in the penalty amount for environmental violations was enacted by Act 52 of the 2004 Regular Session of the legislature. The basis and rationale for this Rule are to clarify the regulations regarding confidentiality of information obtained in public records and to correct the required amounts for penalty fees for environmental violations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 5. Confidential Information Regulations

§503. Requests for Confidentiality

A. - E.8. ...

F. All records submitted in accordance with R.S. 44:3.2 will be processed as a complete request for confidentiality as described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:743 (April 2004), amended by the Office of Environmental Assessment, LR 30:

§505. Responses to Requests for Confidentiality

A. The department shall make a determination and send a written response to the requester by certified mail within a reasonable time from receipt of a complete request for confidentiality, except for:

1. requests made in accordance with R.S. 30:2074(D), in which case the department shall send a written response by certified mail within 21 working days from receipt of the complete request for confidentiality; and

2. requests made in accordance with R.S. 44:3.2, in which case the department shall send a written response by certified mail within 30 days from receipt of the complete request for confidentiality.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:743 (April 2004), amended by the Office of Environmental Assessment, LR 30:

§507. Accessibility

A. Information that is confidential shall not be made available to the public.

B. If a request for confidentiality is granted, such confidentiality shall not prevent the necessary use of the information or records by department employees or duly authorized officers or employees of local, state, or federal governments in carrying out their responsibilities under law. The secretary or the secretary's designee must duly authorize any officer or employee of local, state, or federal government who seeks access to confidential information or records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030 and 30:2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004), amended by the Office of Environmental Assessment, LR 30:

Chapter 7. Penalties
§705. Penalty Determination Methodology

A. ...

Table 1. Penalty Matrix				
Degree of Risk/Impact to Human Health or Property	Nature and Gravity of the Violation			
		Major	Moderate	Minor
	Major	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	Moderate	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
Minor	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100	

A.1. - D. ...

E. The information obtained from the violation-specific and violator-specific factors can be entered into one of the following formulas to obtain a penalty amount (P_n) for each penalty event:

$$P_n = A_n + (B_n \times [C_n - A_n])$$

$$P_n = 2(A_n + [B_n \times (C_n - A_n)])^*$$

where:

P_n = penalty amount for a given penalty event.

A_n = the minimum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

B_n = the sum of percentage adjustments calculated for a given penalty event, where 100 percent ≥ B ≥ -100 percent.

C_n = the maximum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

* [NOTE: The statutory maximum is \$50,000 in circumstances where the penalty event constitutes a violation of a previous enforcement action as stated in R.S. 30:2025(E)(2).]

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:658 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 30:421 (March 2004), amended by the Office of Environmental Assessment, LR 30:

A public hearing will be held on October 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS060. Such comments must be received no later than November 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman,

Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS060. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
 Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES**
**RULE TITLE: Records Confidentiality/Increase in
 Penalty Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on revenue collections of state or local governmental units is anticipated. However, whenever major violations of environmental law warrant the assessment of civil penalties at the maximum rate, the department will receive approximately an 18 percent increase for those collected penalties.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Major violators of environmental law may be assessed an increase in civil penalties.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment by the proposed Rule.

Wilbert F. Jordan, Jr.
 Assistant Secretary
 0409#087

Robert E. Hosse
 General Government Section Director
 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
 Office of Environmental Assessment**

Social Security Number Confidentiality
 (LAC 33:III.2799 and 2805; XI.1305; and
 XV.487, 712, and 1013)(OS059)

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 Environmental Quality regulations, LAC 33:III.2799 and 2805; XI.1305; and XV.487, 712, and 1013 (Log #OS059).

This Rule replaces those provisions in the regulations requiring a social security number with provisions requiring a driver's license or state identification number and the issuing state. Provisions in the regulations requiring social security numbers provide unnecessary exposure of personal, security-related identification information. The department sees no compelling reason to continue to collect social security number information. The basis and rationale for this proposed Rule are to conform to the federal government's position on social security number confidentiality (5 USC 552a Pub. L.93-579 SEC.7.).

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) 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 27. Asbestos-Containing Materials in Schools and State Buildings Regulation

§2799. Appendix A Agent Accreditation Plan

Appendix A Agent Accreditation Plan

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors, and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors, and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

A. - E.2. ...

a. A completed Asbestos Accreditation Affidavit, Form AAC-1 (which may be obtained from the Office of Environmental Services, Permits Division, or through the department's website) that contains:

- i. the applicant's name, address, and telephone number;
- ii. the applicant's driver's license or state identification number and the issuing state;
- iii. the name, address, and telephone number of the applicant's employer;
- iv. an identification of the disciplines in which accreditation is sought;
- v. completed statements of regulation possession and understanding and of regulatory enforceability;
- vi. the applicant's previous accreditation number, if applicable; and
- vii. the applicant's signature and the date of application.

E.2.b. - F.5. ...

a. Unique sequentially-numbered certificates must be issued to students who successfully pass the training course. The numbered certificate must indicate the student's name, his or her driver's license or state identification number and the issuing state, the course completed, and the dates of the course and the examination when applicable. The certificate must also include an expiration date for training that is one year after the date on which the student completed the course. The name, address, and telephone number of the training organization must also be indicated on the certificate. The discipline for which training was received shall be stated on each certificate, and a statement must be included that the person receiving the certificate has completed the requisite training for asbestos accreditation as required under TSCA Title II. States or training providers who reaccredit persons based upon completion of required refresher training must also provide accreditation certificates with all of the above information, except the examination date may be omitted.

b. - c. ...

i. The notification must be received in writing by the Office of Environmental Services, Permits Division, at least five days prior to class commencement. (Notification must be made at least three days prior to a course when only the state regulations are to be taught.)

ii. Cancellation of classes must be received by the Office of Environmental Services, Permits Division, before the class should have commenced.

d. Within 10 days of the completion of a class a complete roster of trainees, their driver's license or state identification numbers and the issuing states, and their examination grades, with a 1" x 1 1/4" photograph of the face of each trainee, must be submitted to the Office of Environmental Services, Permits Division, on a form approved by the department.

5.e. - 9.e.iii. ...

NOTE: Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality

Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2458 (November 2000), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 30:

Chapter 28. Lead-Based Paint Activities Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

§2805. Recognition and Standards for Training Providers

A. - B.8.a. ...

b. the name, driver's license or state identification number and the issuing state, and the address of the individual;

B.8.c. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of Environmental Assessment, LR 30:

Part XI. Underground Storage Tanks

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - F.2.b. ...

G. Issuance and Display of Identification Cards and Certificates

1. Upon issuance of a UST certificate, the department will issue an identification card to the successful applicant that shows the person's name, driver's license or state identification number and the issuing state, categories of certification, certificate number, certificate issuance date, and certificate expiration date.

G.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:

Part XV. Radiation Protection

Chapter 4. Standards for Protection Against Radiation

Subchapter J. Reports

§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Constraints or Limits

A. - B.1.e. ...

2. Each report filed in accordance with Subsection A of this Section shall include for each occupationally overexposed individual the name, driver's license or state identification number and the issuing state, and date of birth. With respect to the limit for the embryo/fetus in LAC

33:XV.417, the identifiers should be those of the declared pregnant woman. The report shall be prepared so that this information is stated in a separate and detachable portion of the report.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, 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 26:2579 (November 2000), LR 26:2771 (December 2000), LR 27:1231 (August 2001), LR 30:1679 (August 2004), amended by the Office of Environmental Assessment, LR 30:

Chapter 7. Use of Radionuclides in the Healing Arts
§712. Notifications, Reports, and Records of Medical Events

A. - C.4.b. ...

D. Each licensee shall retain a record of each medical event for five years. The record shall contain the names of all individuals involved (including the prescribing physician, allied health personnel, the individual affected by the medical event, and the individual's referring physician), the individual's driver's license or state identification number and the issuing state, a brief description of the medical event, why it occurred, the effect on the individual, what improvements are needed to prevent recurrence, and the actions taken to prevent recurrence.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000), LR 30:1174 (June 2004), LR 30:1679 (August 2004), amended by the Office of Environmental Assessment, LR 30:

Chapter 10. Notices, Instructions, and Reports to Workers; Inspections

§1013. Notifications and Reports to Individuals

A. Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in this Section. The information reported shall include data and results obtained pursuant to the Louisiana Radiation Protection Regulations (LAC 33:Part XV), orders or license conditions, as shown in records maintained by the licensee or registrant pursuant to LAC 33:XV.476. Each notification and report shall be in writing and shall include:

1. appropriate identifying data such as:
 - a. the name of the licensee or registrant;
 - b. the name of the individual; and
 - c. the individual's driver's license or state identification number and the issuing state;
2. the individual's exposure information; and
3. the following statement:

"This report is furnished to you under the provisions of the Louisiana Radiation Protection Regulations, LAC 33:XV.Chapter 10. You should retain this report for further reference."

B. - E. ...

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 by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000), amended by the Office of Environmental Assessment, LR 30:

A public hearing will be held on October 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS059. Such comments must be received no later than November 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS059. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Social Security Number Confidentiality

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no expected costs or savings to state or local governmental units by the proposed Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units by the proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or non-governmental groups by the proposed Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment by the proposed Rule.

Wilbert F. Jordan, Jr.
Assistant Secretary
0409#086

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Examiners for New Orleans and
Baton Rouge Steamship Pilots**

Mandatory Rest Period (LAC 46:LXX.6653)

In order to provide for the continued safe and efficient pilotage of vessels along the Mississippi River, as well as to prevent any imminent peril to public health, safety and welfare, the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots finds that it is necessary that all pilots perform their duties while adequately and completely rested. To that end, the Board of Examiners finds an immediate need to provide rules and regulations regarding a mandatory rest period for New Orleans and Baton Rouge Steamship Pilots.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX. River Pilots

**Subpart 7. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots**

Chapter 66. Standards of Conduct

§6653. Mandatory Rest Period

A. All New Orleans-Baton Rouge Steamship Pilots shall have a minimum six hour rest period between turns.

B. For the purpose of this rule, the "rest period" begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

C. For the purpose of this rule, a "turn" is the time period from dispatch to the termination of the allotted travel time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The proposed Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? The proposed Rule will not effect family earnings or family budgets.

5. What effect will this have on the behavior and personal responsibility of children? The proposed Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

All interested persons are invited to submit comments in writing on this proposed Rule. All comments should be submitted in writing to Captain Henry G. Shows, 3900 River Road, Suite 7, Jefferson, LA 70121, by 5 p.m. on October 8, 2004.

Henry G. Shows
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mandatory Rest Period**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no cost to the Board of Examiners, the State of Louisiana or any local governmental entity associated with the promulgation of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no economic cost or benefit to the NOBRA pilots affected by this Rule, as their compensation will remain unchanged. There will no economic impact on industry, as pilotage will not be affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Rule will have no effect on competition or employment.

Henry G. Shows
President
0409#080

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

EPO Plan of Benefits
Hearing Aids & Minor Dependents
(LAC 32:V.301 and 317)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with

the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to authorize limited benefits for hearing aids for covered dependent children under the age of 18. This action is necessary to comply with the provisions of La. R. S. 22:215.25 enacted by Acts 2003, No. 816.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.32. ...

33. hearing aids for use by a covered dependent child under the age of 18, subject to the following limitations:

a. the hearing aids must fitted and dispensed by a licensed audiologist or licensed hearing aid specialist following medical clearance by a licensed doctor of medicine (M.D.) and an audiological evaluation medically appropriate to the age of the child;

b. the maximum amount payable is \$1,400 per hearing aid for each hearing-impaired ear every 36 months; and

c. this benefit shall apply whether or not the hearing impairment is a pre-existing condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 30:

§317. Exceptions and Exclusions for All Medical Benefits

A. - A.26. ...

27. Hearing aids or any examination to determine the fitting or necessity, except as specifically provided in §301.A.33.

28. - 41. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2340 (November 2002), LR 30:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: This Rule will authorize limited benefits not previously available for hearing aids for families participating in the EPO Plan who have hearing impaired covered dependent children under the age of 18.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group

Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on October 22, 2004.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: EPO Plan of Benefits
Hearing Aids & Minor Dependents**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification would cost the EPO plan (Statewide EPO and Region 6-United Healthcare EPO) of OGB approximately \$7,447 in FY 04/05, \$4,964 in FY 05/06, and \$4,964 in FY 06/07. This benefit would provide coverage for one hearing aid for each qualified child under the age of 18 up to a maximum cost of \$1,400 per hearing aid.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of State or Local Governmental units should not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule will result in OGB-EPO members (approximately 3-4) under the age of 18 being eligible for coverage of one hearing aid every three years at a maximum cost of \$1,400. This could result in an additional \$300 in out of pocket costs for the EPO member as this cost could be applied to the annual \$300 deductible.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0409#078

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

MCO Plan of Benefits
Hearing Aids & Minor Dependents
(LAC 32:IX.301 and 317)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the MCO Plan Document to authorize limited benefits for hearing aids for covered dependent children under the age of 18. This action is necessary to comply with the provisions of R. S. 22:215.25 enacted by Acts 2003, No. 816.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

**Part IX. Managed Care Option (MCO) Plan of Benefits
Chapter 3. Medical Benefits**

**§301. Medical Benefits Apply When Eligible Expenses
Are Incurred by a Covered Person**

A. - A.32. ...

33. hearing aids for use by a covered dependent child under the age of 18, subject to the following limitations:

a. the hearing aids must fitted and dispensed by a licensed audiologist or licensed hearing aid specialist following medical clearance by a licensed doctor of medicine (M.D.) and an audiological evaluation medically appropriate to the age of the child;

b. the maximum amount payable is \$1,400 per hearing aid for each hearing-impaired ear every 36 months; and

c. this benefit shall apply whether or not the hearing impairment is a pre-existing condition.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:888 (June 2003), amended LR 30:1191 (June 2004), LR 30:

**§317. Exceptions and Exclusions for All Medical
Benefits**

A. - A.26. ...

27. hearing aids or any examination to determine the fitting or necessity, except as specifically provided in §301.A.33;

28. - 41. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:892 (June 2003), amended LR 30:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: This Rule will authorize limited benefits not previously available for hearing aids for families participating in the MCO Plan who have hearing impaired covered dependent children under the age of 18.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on October 22, 2004.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: MCO Plan of Benefits
Hearing Aids & Minor Dependents**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification would cost the MCO plan

of OGB approximately \$50,836 in FY 04/05, \$33,890 in FY 05/06, and \$33,890 in FY 06/07. This benefit would provide coverage for one hearing aid for each qualified child under the age of 18 up to a maximum cost of \$1,400 per hearing aid.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of State or Local Governmental units should not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in OGB-MCO members (approximately 24-35) under the age of 18 being eligible for coverage of one hearing aid every three years at a maximum cost of \$1,400. There will be no additional cost for co-payments or deductibles under this plan.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0409#076

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO Plan of Benefits
Hearing Aids & Minor Dependents
(LAC 32:III.301 and 317)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document to authorize limited benefits for hearing aids for covered dependent children under the age of 18. This action is necessary to comply with the provisions of R. S. 22:215.25 enacted by Acts 2003, No. 816.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.32. ...

33. Hearing aids for use by a covered dependent child under the age of 18, subject to the following limitations:

a. the hearing aids must fitted and dispensed by a licensed audiologist or licensed hearing aid specialist following medical clearance by a licensed doctor of medicine (M.D.) and an audiological evaluation medically appropriate to the age of the child;

b. the maximum amount payable is \$1,400 per hearing aid for each hearing-impaired ear every 36 months; and

c. this benefit shall apply whether or not the hearing impairment is a pre-existing condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 30:

§317. Exceptions and Exclusions for All Medical Benefits

A. - A.26. ...

27. hearing aids or any examination to determine the fitting or necessity, except as specifically provided in §301.A.33;

28. - 41. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1834 (October 1999), amended LR 26:488 (March 2000), LR 27:720 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2343 (November 2002), LR 30:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: This Rule will authorize limited benefits not previously available for hearing aids for families participating in the PPO Plan who have hearing impaired covered dependent children under the age of 18.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on October 22, 2004.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: PPO Plan of Benefits
Hearing Aids & Minor Dependents**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification would cost the PPO plan of OGB approximately \$38,873 in FY 04/05, \$25,915 in FY 05/06, and \$25,915 in FY 06/07. This benefit would provide coverage for one hearing aid for each qualified child under the age of 18 up to a maximum cost of \$1,400 per hearing aid.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of State or Local Governmental units should not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in OGB-EPO members (approximately 18-20) under the age of 18 being eligible for coverage of one

hearing aid every three years at a maximum cost of \$1,400. This could result in an additional \$500 in out of pocket costs for the PPO member as this cost could be applied to the annual \$500 deductible for active employees or an additional \$300 in out of pocket costs as this cost could be applied to the annual \$300 deductible for retirees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0409#077

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Planning and Budget**

Annual Program Evaluation Reports
(LAC 4:I.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 36:8(B)(1), the Office of the Governor, Division of Administration, Office of Planning and Budget, hereby gives notice of its intent to repeal LAC 4:I.Chapter 1 deleting the requirements regarding annual program evaluation reports.

The proposed Rule was promulgated to establish forms for an annual report summarizing the activities of undersecretaries' offices relating to management and program analysis. Act 20 of 2004 repealed the requirement of R.S. 36:8(B)(1) that the Division of Administration must prepare and review the forms in accordance with the Administrative Procedure Act. R.S. 36:8 specifically prescribes what the reports must contain. Act 20 of 2004 allows the commissioner of administration to prescribe the manner for developing the reports and any other information as he may require.

This Chapter is being repealed because it is in nonconformance with existing law.

Title 4

ADMINISTRATION

Part I. General Provisions

Chapter 1. Annual Program Evaluation Reports

§101. Reports from Undersecretaries to Governor

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§103. Form 160-1 Significant Problem, Deficiency, or Abuse

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§105. Form 160-2 Reports to the Secretary

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§107. Form 160-3 List of Program Evaluations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§109. Form 160-4 Summary of Evaluation or Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

§111. Form 160-5 Significant Recommendations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 20 of 2004.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), repealed by the Office of the Governor, Division of Administration, Office of Planning and Budget, LR 30:

Family Impact Statement

The proposed repeal of LAC 4:I.Chapter 1 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments until 4:30 p.m., October 10, 2004, to Sarah Wallace, Office of Planning and Budget, P.O. Box 94095, Baton Rouge, LA 70804-9095.

David Hoppenstedt
Deputy Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Annual Program Evaluation Reports**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Whit Kling
Deputy Undersecretary
0409#068

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Risk Management**

Reporting of Claims
(LAC 4:V.2101, and 37:I.101, 301, 303, 307, 309,
311, 313, 501, 701, 703, 705, 2502, 2701, 2901,
3101, 3103, 3105, 3107, 3109, 3111, 3113, 3115,
3117, 3119, 3121, 3201, 3301, and 5101)

Under the authority of R.S. 39:1535, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Risk Management proposes to amend LAC 4:V.2101, LAC 37:I.101, 301,303, 307, 309, 311, 313, 501, 701, 703, 705, 2502, 2701, 2901, 3101, 3103, 3105, 3107, 3109, 3111, 3113, 3115, 3117, 3119, 3121, 3201, 3301, and 5101 to make technical changes and update the process of submitting claims in a timely fashion. The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 21. Repair and Replacement of Damaged Property Covered Under the State's Risk Management Program
PPM No. 53

§2101. Responsibilities and Rights

A. The Office of Risk Management, Division of Administration, has the responsibility to manage all state insurance covering property and liability exposure through commercial underwriters or by self-insuring. Personnel benefits, group health, and life coverage are excepted. In discharging this responsibility, the Office of Risk Management has the right of access to all information relating to the state's Self-Insurance and Loss Control Program. This will be accomplished by affording the Office of Risk Management opportunity of inspections of all locations throughout the state.

B. The Office of Risk Management has most rights normally afforded a commercial insurance company. Among these rights is the opportunity to inspect any damage to insured property prior to repair or disposal. Therefore, the Office of Risk Management must be contacted before any repairs or disposal of insured, damaged material is accomplished. Submit all appropriate information relative to incurred losses to the Office of Risk Management at the

following address: Office of Risk Management, Division of Administration, P.O. Box 91106, 1201 N. Third Street, Baton Rouge, LA 70821-9106, Phone (225) 342-8500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:171.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, July 1, 1973, promulgated LR 1:132 (February 1975), amended LR 12:231 (April 1986), amended LR 30:

Title 37

INSURANCE

Part I. Risk Management

Subpart 1. Structured Settlements

Chapter 1. Definitions

§101. Definitions

Commissioner The Commissioner of Administration, the chief executive officer of the Division.

Division The Division of Administration of the Office of the Governor of Louisiana.

May denotes the permissive, the having discretion and authority.

Office of Risk Management The Office of Risk Management created within the Division by R. S. 39:1528.

Plan Offeror or Offeror Any insurer or any bank, trust company, investment fund, or company, or other financial institution or any other legal person or entity which offers to provide an annuity, trust, or other investment product or opportunity to finance, in whole or in part, a structured payment plan and offers to accept an assignment of liability in accordance with Section 130 of the Internal Revenue Code of the United States of America for such purpose. A *plan offeror* is a potential *plan provider*.

Plan Provider or Provider Any insurer or any bank, trust company, financial institution, investment fund, or company, or other financial institution or any other legal person or entity which has offered and been accepted and contracted with to provide an annuity, trust, or other investment product or opportunity to finance, in whole or in part, a structured payment plan and has accepted an assignment of liability in accordance with Section 130 of the Internal Revenue Code of the United States of America for such purpose.

Recipient The ultimate beneficiary of a structured payment plan and/or reversionary medical trust.

Reversionary Medical Trust A trust established by a public entity for the exclusive benefit of an injured person to pay the necessary and reasonable medical expenses of said injured person and shall include, but not be limited to, reasonable amounts for all the diagnosis, cure, mitigation, or treatment of any disease or condition from which the injured person suffers as a result of the injuries, and the sequelae thereof, sustained by said injured person on the date of the accident or happening which caused the injury, where any and all or a portion of the funds remaining in the reversionary medical trust upon its dissolution, caused by the death of the injured party or such other event as may be stated in the trust agreement, shall revert to the public entity which established the trust. The trustee may obtain the services of an administrator to assist in the administration of the trust. All costs, fees, taxes, or other amounts shall be paid by the trust. The trust agreement may impose such other reasonable duties, powers, provisions, and dispute resolution clauses as may be deemed appropriate. Nothing herein provided for shall preclude the public entity from devising

other supplemental funding mechanisms for the exclusive benefit of the trust established for the benefit of the injured party and any such supplemental funding mechanisms shall not be used to determine the present value of the reversionary medical trust.

Shall denotes the imperative, the mandatory.

State Governmental Entity the state or any branch, department, office, division, commission, council, board, bureau, committee, institution, agency, state government corporation, or other establishment or official, officer, or employee thereof. The commissioner, the attorney general and his assistants, and the Office of Risk Management are included in this item. Political subdivisions, as defined in Article 6, Section 44(2), of the Louisiana Constitution, shall not be included within this term, but may acquire structured payment plans, in accordance with R.S. 13:5114.G, at their discretion and with their funds by adopting similar procedures as provided herein for *state governmental entities*.

Structured Payment Plan or Plan a method by which the public entity held liable for damages, or the public entity which agrees to compromise a cause of action for damages, is held responsible. The plan may include immediate payments and the funding of an investment, the principal and fruits of which are to be used to pay in future years damages in accordance with the terms of the plan. Such plans may include, but shall not be limited to, cash payments, annuities, trusts, reversionary medical trusts, qualified assets as defined by Section 130 of the United States Internal Revenue Code (26 USC Section 130), or any combination of them.

Structured Settlement Firm any individual, partnership, corporation, unincorporated association, company, joint stock company, joint venture, or any legal person or entity engaged in the business of rendering structured settlement services whether for the right, opportunity, or hope of acting as a commissioned agent or broker in the purchasing of any insurance annuity and/or other investment to be used in a structured payment plan or not.

Structured Settlement Services the furnishing of labor, time, or effort to a party against whom a legal action has been filed or a claim for damages or other monetary value has been made or to the attorney for such part for the purpose of attempting to resolve such action or claim by the use, in whole or in part, of a structured payment plan. Such services may include consultation; negotiation; preparation of information, data, or arguments for negotiation, for hearings or for other decision-making activities on possible structures; the ascertainment of availability of various possible structured payment plans and the costs thereof; the purchase of insurance annuities or other investments, as a commissioned agent or broker or otherwise, to be used in a structured payment plan; and/or the preparation of quotes, reports, and/or other records in connection with these services.

Using Agency any state governmental entity which has the procedural capacity to be sued in its own name, which has been sued in an action for damages or other monetary value, or has been notified that there is an outstanding claim for such damages or value being made against it, and which seeks to compromise such liability by the use, in whole or in part, of a structured payment plan or has been actually cast

in a judgment of liability incorporating a structured payment plan.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:234 (April 1986), amended LR 30:

Chapter 3. Structured Settlement Services

§301. Qualifying Criteria for Acceptable Structured Settlement Firms

A. A structured settlement firm desirous of rendering structured settlement services to a state governmental entity shall first meet the following criteria and possess the following qualifications.

1. It shall have been, for at least three immediately preceding and successive years, successfully engaged in the business of rendering to private attorneys, to private entities or persons, or to attorneys or entities of local governments, or governments of other jurisdictions the same or substantially similar structured settlement services as defined in Part I.

2. It employs at least one person who has actually been, for a period of three successive years or more, successfully engaged in performing the same or similar structured settlement services as defined in this part and who will personally supervise the rendering of any such services to every state governmental entity receiving them from such firm.

3. It shall be able to make such purchases as agent or broker from at least five valid structured settlement annuity carriers which meet the qualifying criteria for plan offerors and providers established in these rules and regulations and with none of which it has an ownership, equity, capital, or proprietary relationship or interrelationship whatsoever. For each case the broker's top three quotes and the names of the carriers will be furnished to the Office of Risk Management.

4. It shall furnish good and sufficient recommendatory references as follows:

a. five persons or entities to whom it has actually rendered successful and satisfactory services relating to structured payment plans within the past three years;

b. five financial references whose ownership, equity, capital, or proprietary relationship or interrelationship with or other interest in such structured settlement firm, if any, is fully disclosed to the Office of Risk Management together with or prior to the recommendation(s) made by any such reference.

5. It shall provide the following information:

a. a copy of Louisiana agents/brokers license;

b. proof of coverage of \$1,000,000 for errors and omissions which specifically covers structured settlements;

c. a copy of the firm's audited financial statement (If the firm is a division of a larger corporation, a copy of the corporate financial statement will satisfy this requirement.);

d. proof of National Structured Settlement Trade Association (NSSTA) membership;

e. a complete list of qualifying structured settlement carriers which the firm regularly utilizes in providing structured settlement services.

6. Firms shall be responsible for the immediate notification to the Office of Risk Management if the license referred to in §301.A.5.a. expires or is terminated and if the policy referred to in §301.A.5.b. expires or is terminated.

Additionally, the firm shall notify the Office of Risk Management within 30 days of change of carrier for the policy referred to in §301.A.5.b.

7. It shall be otherwise qualified to do business in the state of Louisiana generally and shall have promptly paid all taxes due to the state of Louisiana as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 12:832 (December 1986), LR 16:614 (July 1990), LR 17:1206 (December 1991), LR 30:

§303. Application, Investigation, Verification, List-Keeping of Qualified Structured Settlement Firms

A. Any structured settlement firm meeting the qualifying criteria set forth therefor in these rules and regulations and desiring to render structured settlement services to a state governmental entity shall first submit an application to the Office of Risk Management on a form to be approved by the commissioner and obtain from the Office of Risk Management a notice of verification of its meeting all qualifying criteria. Such application shall state the bases for and provide all information relevant and material to its meeting all such qualifying criteria.

B. Within a reasonable period, not to exceed 120 days, after receipt of such application, the Office of Risk Management shall investigate applicant's qualifications and have sent applicant notice of either verification of its meeting all qualifying criteria or rejection of the application based on failure to meet all qualifying criteria. Such notice of rejection shall indicate in what particulars the applicant failed to meet the qualifying criteria.

C. The Office of Risk Management shall maintain a list of all structured settlement firms whose applications and qualifying criteria have been verified.

D. For any reason and at any time whatsoever, the Office of Risk Management may inquire, investigate, and/or update an investigation into the continuing qualification of any structured settlement firm and may request of such firm any additional information, data, or references relevant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 30:

§305. Grounds for Removal from List

A. A structured settlement firm shall be removed from the list maintained by the Office of Risk Management of acceptable structured settlement firms meeting all qualifying criteria, on the following grounds.

1. It no longer meets all qualifying criteria in fact.

2. It fails, in accordance with §301.B to produce sufficient proof to the Office of Risk Management, upon the request thereof, that it continues to meet all qualifying criteria.

3. It violates any of these rules and regulations.

4. It engages in any criminal activity, acts involving moral turpitude, fraud, or misrepresentation including, but not limited to, the making of any material misrepresentation in any reports, notices, applications, statements, quotes, offers, or documents required by these rules and regulations

or by law to be filed with or sent to any state governmental entity or any attorney thereof.

B. If at any time the Office of Risk Management discovers that a structured settlement firm which has been already verified as to qualifying criteria and is currently on the list of such firms meeting qualifying criteria has become no longer qualified to render structured settlement services to state governmental entities, then the Office of Risk Management shall issue a notice of such discovery to such firm. If the firm fails to provide to the Office of Risk Management proof of its continuing to meet all qualifying criteria as provided in these rules and regulations within 30 days after such notice is sent, the firm shall be removed from the list and shall not be acceptable as a qualified structured settlement firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:235 (April 1986), amended LR 30:

§307. Selection of Structured Settlement Firm for Structured Settlement Services

A. Because the Code of Professional Responsibility for lawyers requires that they represent their respective clients with full competence and shall exercise their independent judgment in such representation and because structured settlement services are primarily in the nature of consulting negotiation services, the attorney actually representing a using agency in a particular legal action or claim shall request from the Office of Risk Management the designation of a firm from among those firms currently on the list of qualified structured settlement firms maintained by the Office of Risk Management, a structured settlement firm to render structured settlement services in such particular legal action and claim, when the circumstances indicate that a structured payment plan may be an appropriate way of resolving the particular legal action or claim, and the services of a structured settlement firm are necessary or highly desirable from the attorney's point of view to assist in such resolution of the action or claim. Copies of any contracts or agreements with the structured settlement firm shall be maintained on file in the Office of Risk Management.

B. Whenever the attorney general is consulted pursuant to the provisions and requirements of R. S. 13:5114.C or whenever the attorney for a using agency is one whose professional services were contracted for with the approval of the attorney general or commissioner of Administration, as may be provided by statute, then the selection of the structured settlement firm by the attorney representing the interests of the State shall be with the consent of the commissioner of Administration or the assistant commissioner of Administration designated by her for such purpose.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:236 (April 1986), amended LR 12:832 (December 1986), LR 30:

§309. Qualified Plan Offerors and Providers

A. Only annuities, trusts funded with obligations of the United States of America, and reversionary medical trusts will be used to finance the future payments to be made in all

structured payment plans used by the state governmental entity.

B. All annuities to be used in structured payment plans shall be purchased from plan offerors or providers which are insurance companies qualified to do business in Louisiana and which have, from the most recently issued *Best Insurance Report*, a rating of "A + " with a classification of "IX" or higher and have either a designation of "AA" or better by Standard and Poor or Duff and Phelps or the equivalent "Aaz" by Moody. Company must have these ratings from two of the three rating services.

C. Trusts funded with obligations of the United States of America shall be established only with financial institutions which have:

1. the corporate or other power and authority to administer the trust sought to be established;

2. a trust department, division, or office which is then administering at least \$20,000,000 in trust assets; and

3. at least one trust officer or employee who has been successfully engaged, for a period of five or more years, in administering the kind of large trusts which contain \$1,000,000 or more worth of assets each.

D. Reversionary medical trusts shall be established only with financial institutions which meet the qualifying criteria set forth in §309.C for trusts funded with obligations of the United States of America and which also have the ability to establish a system, through consultants or otherwise, to accomplish, at least competently as exists among prudent health and medical insurers, the review, evaluation, and approval or rejection, as appropriate, of all medical requests submitted by beneficiary for payment.

E. No plan offeror or provider shall have any ownership, equity, capital, or proprietary relationship or interrelationship with any structured settlement firm which has rendered, or is rendering, structured settlement services to a state governmental entity or to the attorney thereof in a particular legal action or claim and which has proposed to contract as an agent or broker with such plan offeror or provider for any annuity, trust, or other investment product or opportunity to finance a structured settlement plan with respect to such legal action or claim.

F. The Office of Risk Management will not maintain a list of qualified offerors or providers. It shall be the duty of the structured settlement firm to exercise due diligence in certifying that only qualified plan offerors and providers are dealt with in accordance with these rules and regulations. The Office of Risk Management shall maintain, however, a list of plan offerors or providers which might otherwise meet the qualifications and criteria of §309 but which have been disqualified under §313 of these rules and regulations. A copy of this list shall be made available to any qualified structured settlement firm upon request and upon payment of the requisite fee. The failure of a structured settlement firm to deal with and accept quotes and/or offers only from qualified plan offerors and providers shall be a violation of these rules and regulations and grounds, under §305 of these rules and regulations, for removal of such firm from the list maintained by the Office of Risk Management of acceptable structured settlement firms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114 and 39:1527.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:236 (April 1986, amended LR 12:832 (December 1986), LR 16:615 (July 1990), LR 17:1207 (December 1991), LR 30:

§311. Selection of Plan Providers from among Plan Offerors

A. A structured settlement firm which is qualified under §301 of these rules and regulations and which has rendered, or is rendering, structured settlement services to a state governmental entity or to the attorney thereof in a particular legal action or claim being resolved, in whole or in part, by a structured payment plan shall select the plan providers as provided hereinbelow for the implementation of such plan. Such selection shall be made only in accordance with the following conditions and procedures:

1. the structured settlement firm has obtained cost and availability quotes from not less than three qualified plan offerors on each annuity or trust to be used in the plan, unless after diligent search there are not three qualified plan offerors willing to provide the particular trust or annuity sought to be established, and then, in that case, the full details of the search and its results shall be reported to the Office of Risk Management, and the best evaluated annuity and/or trust considering cost, performance, and stability is proposed to be selected; and

2. notice and the details of each such quote, each plan offeror's qualifications, and each proposed selection have been received by the Office of Risk Management; and

3. no objection by the Office of Risk Management has been received by the structured settlement firm within three days, excluding holidays and weekends, after the receipt by the Office of Risk Management of the notice and details of each quote, each plan offeror's qualifications, and each proposed selection; and

4. either:

- a. the plan has received the approval of the Joint Legislative Committee on the Budget and the notification thereof has been made upon the Office of Risk Management; or

- b. a legislative enactment making a specific appropriation to fund the particular structure payment plan makes such funding executory without the need for further approval from the Joint Legislative Committee on the Budget; and

5. properly appropriated funds for payment of the judgment or the structured payment plan are made available therefor.

B. Only the qualified plan offeror(s) offering and quoting the best evaluated annuity, trust, and/or other investment product or opportunity which is available and which meets all the requirements, conditions, and specifications of the structured payment plan shall be selected as the plan provider(s). The details of the proposed selection shall include, as a minimum, an evaluation of each offering and quote considering the cost, performance, and stability thereof, and the reasons that the offering(s) and quote(s) proposed to be selected will best serve the state's interests.

C. In addition to a sworn statement that there is no ownership, equity, capital, or proprietary relationship, no interrelationship whatsoever between the structured settlement firm and each offeror, the details of each offeror's

qualifications shall also include, as a minimum, the following:

1. with respect to each offeror which is an insurer offering an annuity, the date of the most recently published *Best Insurance Report* and the page(s) therein on which such insurer's rating and classification are reported;

2. with respect to each offeror which is a financial institution offering a trust funded with obligations of the United States of America:

a. a description of the overall organization, charter, purposes, and fields of business and financial endeavors of the financial institution and of the trust department, division, or office which will actually administer the trust and the value of trust assets being administered by such department, division, or office. If the most recently issued financial statement of such financial institution contains and fairly represents this information, then a copy of such financial statement shall suffice for such information;

b. the full names of the executive personnel of the trust department, division, or office which will actually administer the trust and synopses of their respective educational backgrounds and professional experience;

c. a summary of the experience of that financial institution and of its principal trust officers and employees in administering trusts which are similar to the one sought to be established for the structured payment plan, including all relevant information and data concerning such performance indicators as the yields on trust investment, the payout to beneficiaries, and the planned, anticipated and the unplanned, unanticipated depletion or growth of trust corpus as a result of unwise or wise management and/ or imprudent or prudent investment and also including, as a means for verification, the names and addresses of the makers (especially makers which are federal, state, or local public entities) and the beneficiaries of such trusts (unless such names and addresses are confidential or privileged under law or by prior agreement between the financial institution and the parties to such trusts);

3. with respect to each offeror which is a financial institution offering a reversionary medical trust:

a. the same information, descriptions, and summaries as required in §311.C.2 for financial institutions offering a trust funded with obligations of the United States of America but made applicable to reversionary medical trusts;

b. the particulars on the system whereby beneficiary medical requests will be reviewed, evaluated, and approved or rejected, as appropriate, including the names and addresses of the persons and/or consultants who will actually perform these functions, a history of their respective educational backgrounds and professional experience, a history of their past performance of these functions (including, but not limited to, all relevant information and data concerning such performance indicators as the efficiency and effectiveness of beneficiary medical request monitoring and review, the promptness with which beneficiary medical requests are acted on and, if approved, are paid, circumstances wherein additional injections of funds into the trust corpus after the inception of the trust, if provided for in the trust agreement, become necessary, and the final outcome or resolutions of situations where there are refusals to pay or rejections of beneficiary medical requests),

and an evaluation of their past performance of these functions.

D. Properly appropriated funds for payment of the judgment or the structured payment plan refer to funds available for such purpose under the constitution or law and includes funds appropriated by any specific appropriation of the legislature to pay a judgment, compromise, or structured payment plan; funds from the final judgment fund when the amount of payment to satisfy the judgment meets the conditions and criteria of such fund; and/or any pool of funds appropriated by the legislature to finance structured payment plans.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:236 (April 1986), amended LR 30:

§313. Disqualification of Plan Offerors and Providers

A. Notwithstanding the fact that an insurer meets the qualifications and criteria of §309.B of these rules and regulations and/or that a financial institution meets the qualifications and criteria of §309.C and/or §309.D of these rules and regulations, any plan offeror or provider, including such insurer and/or such financial institution, may be disqualified by the Office of Risk Management from thenceforth making offers to provide and/or providing any annuities, trusts, or other investment products or opportunities to finance, in whole or in part, any structured settlement plans for any state governmental entities, upon any of the following grounds:

1. it violates any of these rules and regulations;

2. it engages in any criminal activity, acts involving moral turpitude, fraud, or misrepresentation, including, but not limited to, the making of any material misrepresentation in any reports, notices, applications, statements, quotes, offers, policies, contracts, or documents required by these rules and regulations or by law to be filed with or sent to any state governmental entity or any attorney thereof.

B. The Office of Risk Management shall maintain a list of plan offerors and providers which have been disqualified under §309. Such list shall be open to the public for inspection during regular office hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 30:

Chapter 5. Insurance Policies, Trust Contracts, and Other Evidence of Obligations Implementing Structured Payment Plans

§501. Depository for Annuities

A. The State Treasurer's Office shall be used as the depository for all annuity policies, trust policies, trust contracts, and other evidence of obligations used to implement structured payment plans and purchased pursuant to the rules and regulations set forth herein and the structured judgment or compromise documents. These documents shall be retained until final satisfaction of such judgment or compromise.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 30:

Chapter 7. Administrative Procedures

§701. Dissatisfaction with Structured Settlement Firms and/or Plan Providers

A. Any state governmental entity or any attorney therefor dissatisfied with the performance of any structured settlement firm or with any plan offeror or provider or any recipient dissatisfied with the performance of any plan provider in any plan in which he is the recipient may report the grounds for such dissatisfaction, in writing, to the Office of Risk Management which may take any action authorized by law or by these rules and regulations to attempt to rectify the situation. Such reports shall be retained by the Office of Risk Management for additional use as support for any needed future changes in these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 30:

§703. Appeals from Decisional Acts of the Office of Risk Management

A. Appeals to the commissioner from the Office of Risk Management may be taken in accordance with the procedures and delays set forth in §703:

1. by a structured settlement firm:
 - a. regarding its removal from the list maintained by the Office of Risk Management of acceptable structured settlement firms meeting all qualifying criteria; or
 - b. regarding the refusal or failure of the Office of Risk Management to place such firm on such list, after such firm has properly submitted a completed application therefor and either the delay for notification has elapsed or such firm has received a notification of rejection;
2. by a plan offeror or provider regarding its disqualification under §313 of these rules and regulations.

B. All appeals provided for in §703 shall be taken within 14 days, exclusive of holidays and weekends, after the action complained of. The commissioner may extend this period for good cause shown, if a request for extension is made, in writing, to the commissioner within this initial 14 day period.

C. All appeals provided for in §703 shall be taken by the appellant's filing a written document of appeal with the commissioner. Such document shall include as exhibits copies of all relevant letters, applications, notices, and other writings and shall contain, as a minimum, the full name and address of the appellant, its chief executive officer, and, if it is being represented by legal counsel, the full name(s) and address(es) of its legal counsel, a simple statement of the action of the Office of Risk Management being appealed from, the date on which such action occurred, and a concise presentation of the grounds for the appeal and the reasons for appellant's contention that the action being appealed from should be modified or reversed. The commissioner shall allow the Office of Risk Management to respond, in writing, to each appeal. A copy of the appeal shall be served on the Office of Risk Management, and a copy of a response by the Office of Risk Management shall be served on the appellant or its legal counsel of record in the appeal. The commissioner may then decide the appeal summarily on the basis of the documents and writings presented, may require additional evidence and/or argument or may hold formal or

informal hearings, as the commissioner deems necessary for a just decision.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:237 (April 1986), amended LR 30:

§705. Appeals from the Commissioner

A. Appeals from the commissioner shall be made to the Nineteenth Judicial District Court, Parish of East Baton Rouge, in accordance with the provisions of R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R. S. 13:5114.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 12:238 (April 1986), amended LR 30:

Subpart 2. Insurance and Related Matters

Chapter 25. Underwriting

§2501. Underwriting

A. All coverages which are self-insured by the Office of Risk Management are mandatory for all Louisiana state departments, agencies, boards, and commissions.

B. If any department, agency, board, or commission requires or wishes to procure any insurance coverages which are not written through the Louisiana Self Insurance Program, request is to be made to the Office of Risk Management to procure said coverage. It is the responsibility of the department, agency, board, or commission to provide the underwriting information required to procure or underwrite the risk.

C. All leases for real and movable property (including vehicles) which are entered into by any state department, agency, board, or commission are to be forwarded to the Office of Risk Management for review in compliance of insurance requirements.

D. All inquiries regarding interpretation of insurance coverages are to be addressed to the Underwriting Unit. and are to be in a written form.

E. Boiler and machinery equipment at new locations are to be reported to the Underwriting Unit.

F. Builder's risk projects are to be reported to the Underwriting Unit when the construction contract has been awarded or the "Notice to Proceed" has been issued.

G. All newly constructed state-owned buildings are to be reported to the Underwriting Unit upon acceptance/completion.

H. All newly acquired state-owned aircraft are to be reported to the Underwriting Unit immediately but in no event more than 30 days after acquisition. All newly leased or borrowed aircraft are to be reported to the Underwriting Unit immediately but in no event more than 30 days after possession or lease.

I. Any newly acquired, constructed, leased, or borrowed airport or heliport facilities are to be reported to the Underwriting Unit before coverage will be effective.

J. All newly acquired state-owned marine vessels which are over 26 feet in length are to be reported to the Underwriting Unit immediately but in no event more than 30 days after acquisition. All newly leased or borrowed marine vessels which are over 26 feet in length are to be reported to the Underwriting Unit immediately but in no event more than 30 days after possession or lease.

K. Applications for new crime policies are to be submitted to the Underwriting Unit. Coverage does not become effective until the insurance company has accepted the new risk.

L. All departments, agencies, boards, and commissions are to provide the name, address, telephone number, and job title of the following:

1. the department, agency, board, or commission head;
2. the person(s) to receive insurance premium billings;
3. the safety coordinator or person(s) responsible for loss prevention matters;
4. the person(s) responsible for handling and disposition of claims matters;
5. the person(s) responsible for reporting exposure information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:19 (January 1987), amended LR 30:

Chapter 27. Auditing and Statistics

§2701. Auditing and Statistics

A. The exposure data requested by the Office of Risk Management (ORM) are to be submitted in a timely manner and in the form specified. The exposures may include, but are not limited to:

1. payroll;
2. maritime payroll;
3. number of board and commission members;
4. mileage of all licensed vehicles which are state-owned or leased, and all mileage on personal vehicles driven in the course and scope of state employment;
5. number of licensed vehicles;
6. acquisition or appraised value of property including, but not limited to, buildings, improvements, and inventory (includes contents, all equipment including mobile equipment and watercraft 26 feet and under), and boiler and machinery;
7. medical malpractice exposures including, but not limited to, patient days, clinic visits, emergency room visits, number of residents/ interns, and miscellaneous categories;
8. number of employees, and miscellaneous or special classes not falling within these definitions as required.

B. Billed units are to allocate premiums to subunits if required. It is not the ORM's responsibility to provide breakdowns at a lower level than the level to which premiums were budgeted or billed.

C. The Office of Risk Management is to receive immediate written notification of the abolishment, transfer, and/or merger of any department, agency, board or commission.

D. The state agencies are to provide or allow access to ORM representatives to records or information necessary to the effective operation of the Risk Management program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:19 (January 1987), amended LR 15:85 (February 1989), LR 30:

Chapter 29. Billing

§2901. Billing and Collection of Insurance Premiums

A. After an agency receives a billing invoice from the Office of Risk Management for payment of insurance

premiums, the agency is to render payment in full within 30 days from the billing date.

B. Every agency shall timely pay premiums billed by the Office of Risk Management. In the event any agency fails to pay any premiums due the Office of Risk Management within one hundred twenty days of the effective date of the appropriated insurance coverages, the Commissioner of Administration may upon request by the Office of Risk Management draw a warrant against budgeted funds of any delinquent agency directing the treasurer to pay the Office of Risk Management for the unpaid premiums. If an agency is a non-depository agency, the Commissioner of Administration may direct the head of such agency to render payment of insurance premiums due and owing to the Office of Risk Management.

C. All billing inquiries are to be directed to the Office of Risk Management, Accounting Unit, Accounts Receivable Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 30:

Chapter 31. Reporting of Claims

§3101. Reporting of Property Damage Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states..."you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for damage to state-owned property which includes damage to buildings and improvements, contents, inventories, mobile equipment, heating and air conditioning systems, and marine hulls 26 feet and under.

C. All claims for damage to property owned by the state are to be reported to the Office of Risk Management's Property Claim Unit in writing. If a loss or claim is serious in nature, it is to be reported by telephone to the Office of Risk Management's Property Claim Unit.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Information required to be submitted when a claim is reported to the Office of Risk Management's Property Claim Unit includes the following:

1. name of insured, location of property or unit;
2. date of loss;
3. description of loss;
4. location of item, state building ID/property control tag number;
5. size, model, and serial number of item, if applicable;
6. name of person reporting claim, listing job title, and telephone number; and
7. proof of ownership.

F. After a loss has occurred, all property which has been damaged is to be protected against further damage and is to be made available for inspection by a claims adjuster assigned by the Office of Risk Management.

G. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authorization from the Office of Risk Management, but should act to protect property and minimize the loss.

H. If repair or replacement is not accomplished within 36 months of the loss date; or, if approval is not obtained from the Commissioner of Administration to use the funds for some other purpose, or to extend the 36 month prescriptive period, the claim file will be closed.

I. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management, Property Claims Unit for further handling.

J. Any objects and/or products which may have caused, contributed to, or which are suspect of causing an accident are to be retained and preserved as evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 15:85 (February 1989), LR 30:

§3103. Reporting of Boiler and Machinery Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for bodily injury and third party property damage claims where such losses result from state-owned boiler and machinery equipment, and for property damage to state-owned boiler and machinery equipment.

C. All claims for damage to boiler and machinery equipment are to be reported to the Office of Risk Management's Property Claim Unit in writing. Any claim involving bodily injury is to be reported by telephone to the Office of Risk Management's Property Claims Unit.

D. Claims are to be submitted in writing to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Information required to be submitted when a claim is reported to the Office of Risk Management's Property Claim Unit includes the following:

1. name of insured, location of property or unit;
2. date of loss;
3. description of item, to include size, model, serial number, and tonnage or capacity;
4. name, job title, and telephone number of person reporting claim;
5. name and phone number of person to be contacted by adjuster assigned by ORM.

F. After a loss has occurred, the property which has been damaged is to be protected against further damage and is to be made available for inspection by a claims adjuster.

G. If replacement, repair, reconstruction, or rebuilding is not commenced within 36 months of the loss date for all state property losses; or if a claim remains inactive for 36 months after replacement, repair, reconstruction or rebuilding is commenced; or if approval is not obtained from the commissioner of Administration within the same period of time for expenditure of insurance proceeds for some other purpose, the claim file will be closed.

H. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Property Claim Unit for further handling.

I. Any objects and/or products which may have caused, contributed to, or which are suspect of causing an accident are to be retained and preserved as evidence.

AUTHORITY NOTE: Promulgated in accordance with R. S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:20 (January 1987) amended LR 15:85 (February 1989), LR 30:

§3105. Reporting of Comprehensive General Liability Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides Comprehensive General Liability coverage for bodily injury and property damage claims resulting from operations for which the agency could be held legally liable.

C. All general liability claims are to be submitted, in writing, to the Office of Risk Management on a General Liability Claim Reporting Form or in a narrative format. The General Liability Claim Reporting Form can be found on the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:20 (January 1987), amended LR 15:85 (February 1989).

§3107. Reporting of Worker's Compensation and Maritime Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for Worker's Compensation and Maritime Claims.

C. All accidents or occupational diseases involving state employees while in the course and scope of their employment with the state are to be reported to the Office of Risk Management within five days from the date of injury or knowledge. The forms used for this purpose are the Employer's Report of Occupational Injury or Disease Form (E-1, completed at the time of the accident), and the Pre-existing Condition Form (E-2, which was completed when hired). The Office of Risk Management will accept electronic filing of the Employer's Report of Occupational Injury or Disease Form. Access www.doa.louisiana.gov/orm and click on Agency Claims Reporting System.

D. Employer's Report of Occupational Injury or Disease Forms can be obtained from Forms Management, Box 94095, Baton Rouge, LA 70804-9095 and the Pre-existing Condition Form can be obtained from the Office of Risk Management, Claims Section, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. A copy of the Employer's Report of Occupational Injury or Disease Form and a copy of the Pre-existing Condition Form for a claim in which lost time exceeds seven days, is to be submitted to the Office of Worker's Compensation Administration, P.O. Box 94040, Baton Rouge, LA 70804-9040 within 10 days of actual knowledge of injury or death.

F. All Employer's Report of Occupational Injury or Disease Forms and Pre-existing Condition Forms are to be accurately and completely filled out.

G. Information required to be submitted when a worker's compensation claim is reported on the Employer's Report of Occupational Injury or Disease Form includes:

1. agency's location code number (located in a block below the Employer's Federal Tax I.D. Number);

2. the occupation of the employee, inclusive of his/her classified or unclassified job title. A classified job title is to include the civil service job classification code number;

3. an injured employee's monthly wages are to be reported on the Employer's Report of Occupational Injury or Disease Form under "Other Wages."

H. Information which is to be contained on the Preexisting Condition Form includes:

1. complete name, age, social security number, address, and civil service position being applied for;

2. check list of possible pre-existing diseases, disabilities, and/or conditions before employment;

3. description of particulars relative to any checked pre-existing permanent disabilities;

4. name and address of employer at time of previous injury;

5. witnessed and dated signature of applicant as to the completeness, accuracy, and validity of the information contained on the Pre-existing Condition Form.

I. If an injured employee returns to work after having lost time, the Office of Risk Management, Worker's Compensation Claims Unit, is to be notified immediately by telephone, and an Employer's Supplemental Report of Injury is to be submitted confirming the return to work date. Also, an Employer's Supplemental Report of Injury Form is to be submitted to the Office of Risk Management at any time the injured employee's work status changes.

J. All lawsuits, demands, notices, summons, or other legal documents pertaining to claims are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

K. Any objects and/or products which may have caused, contributed to, or which are suspected of causing any accident are to be retained and preserved as evidence.

L. Any claim paid by legislative appropriation is to be reported to the Office of Risk Management by Appropriations Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 16:401 (May 1990), LR 30:

§3109. Reporting of State Automobile Liability and Physical Damage Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for liability and physical damage to state-owned and leased licensed vehicles and excess liability coverage for employee's private automobiles while being operated with proper authorization during the course and scope of state employment.

C. All claims for liability or physical damage to state-owned and leased licensed vehicles are to be reported to the Office of Risk Management's Transportation Claims Unit in

writing. If a loss involves property damage estimated at \$5,000 or more or if a loss involves any bodily injury, the loss is to be reported by telephone to the Office of Risk Management Transportation Claims Unit.

D. All claims are to be submitted to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 on a DA 2041 (revised 12/98) accident report form. This form must be completed within 48 hours after an automobile accident. These forms are available through DOA/Forms Management and The Office of Risk Management's web site, www.doa.louisiana.gov/orm.

E. The Automobile Accident Form (DA 2041) must be completed and submitted to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 or faxed to (225) 342-4470 within 48 hours after the accident occurred.

F. Automobile accident reports are to be submitted with as much information as possible; however, if certain information is unavailable, the report is to still be submitted. Information which is unavailable can be obtained at a later date.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be submitted immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises, do not assume any obligation or incur any expenses without authority from the Office of Risk Management.

J. If repair or replacement of a state vehicle is not completed within 12 months of the loss date, or if approval is not obtained from the Commission of Administration within the same period of time for expenditure of insurance proceeds for some other purpose, the claim file will be closed.

K. More information relative to the reporting of state automobile liability and physical damage claims such as reimbursement of collision deductible on employees' personally-owned vehicle used on state business, towing of state vehicles, reduction of automobile liability limit in a special circumstance, rented motor vehicles and/or courtesy vehicles, and guidelines for in-house repairs to state owned licensed vehicles can be found on the Office of Risk Management's web site, www.doa.louisiana.gov/orm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989), LR 30:

§3111. Reporting of Aviation Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate

the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for aviation losses which includes liability and hull coverage. All claims are to be reported to the Office of Risk Management's Transportation Claims Unit.

C. Claims are to be submitted within 48 hours after an accident/incident to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106 on the Aviation Accident Report form furnished by the Office of Risk Management. Please contact the Transportation Unit supervisor for these forms.

D. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Transportation Claims Unit for further handling.

E. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

F. If a loss occurs or a claim arises, the agency is not to assume any obligations or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:21 (January 1987) amended LR 15:85 (February 1989).

§3113. Reporting of Wet Marine Claims (Over 26 Feet)

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance for liability and hull damage for marine vessels over 26 feet in length.

C. All claims involving vessels in excess of 26 feet are to be reported, in writing, to the Office of Risk Management's Transportation Unit. All bodily injury claims are to be reported by telephone to the Office of Risk Management's Transportation Unit.

D. Claims are to be submitted in writing within 48 hours after an accident/incident to the Office of Risk Management, Transportation Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E.1. Information required to be submitted when a claim is reported to the Office of Risk Management's Transportation Unit includes the following:

- a. complete description of vessel, including hull identification and coast guard certificate number;
- b. name of captain or master and passengers;
- c. exact location of incident;
- d. date and time of incident;
- e. names and addresses of third parties involved if known;
- f. description of damages;

- g. contact persons who can assist in investigation;
- h. circumstances surrounding and/or cause of accident.

2. All accidents/incidents involving ferry boats are to be reported to the Office of Risk Management on the Department of Transportation (DOTD) accident report forms: DOTD 03-18-3023 for private vehicles and DOTD 03-18-3024 for passenger(s) injured.

F. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Transportation Claims Unit for further handling.

G. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

H. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

I. Refer to the Office of Risk Management's web site, www.doa.louisiana.gov/orm, for procedures for repairing water vessels (over 26 feet) covered by the commercial insurance market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:21 (January 1987), amended LR 15:85 (February 1989), LR 30:

§3115. Reporting of Bond and Crime Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides insurance coverage for bond and crime which includes performance, money and securities. All claims are to be reported, in writing, to the Office of Risk Management's Property Claims Unit, P.O. Box 91106, Baton Rouge, LA 70821-9106.

C. Information required to be submitted includes the following:

1. name of insured agency;
2. date of loss;
3. location of loss;
4. circumstances surrounding the occurrence;
5. approximate value of loss; and
6. name of person reporting claim, listing job title and telephone number.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

F. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:22 (January 1987), amended LR 15:85 (February 1989), LR 30:

§3117. Reporting of Medical Malpractice Liability Claims

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. Prior to July 1, 1988 the State of Louisiana provided medical malpractice coverage in accordance with the provision of R.S. 40:1299.39 which details coverage and liability provisions. Effective July 1, 1988, the State of Louisiana became self-insured for medical malpractice. Medical malpractice coverage is extended to state health care facilities and individuals acting in a professional capacity in providing health care services by or on behalf of the state, including medical, surgical, dental, or nursery treatment of patients.

C. Coverage excludes the following:

1. premises liability;
2. bodily injury to employees arising out of employment by the insured;
3. all obligations under Worker's Compensation or similar laws; and
4. bodily injury in handling or maintenance of automobiles, aircraft, watercraft, or transportation of mobile equipment by an auto owned, operated, rented, or loaned to any insured.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Medical Malpractice Claim Unit for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss occurs or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527, et seq.

HISTORICAL NOTE: Promulgated by the Division of Administration, Office of Risk Management, LR 13:22 (January 1987), amended LR 15:85 (February 1989), LR 30:

§3119. Reporting of Road and Bridge Hazard Claims (Department of Transportation and Development)

A. All claims must be reported as soon as possible, but no later than the prescription period outlined in Book III, Title 24, Chapter 4 of the Louisiana Civil Code. In most cases, prescription periods are one year. ORM will pay only for covered losses reported before one year from the date of the accident or discovery date. Policy language clearly states: "...you must see to it that we are notified as soon as practicable of an 'occurrence' or an offense which may result in a claim." Failure to report potential claims as soon as possible severely limits the ability of ORM to investigate the facts and may compromise the state's legal rights to subrogation from a responsible third party.

B. The state of Louisiana provides road and bridge hazard liability coverage for bodily injury and property damage claims resulting from the establishment, design, construction, existence, ownership, maintenance, use, extension, improvement, repair, or regulation of any state bridge, tunnel, dam, street, road, highway, or expressway for which the agency could be held legally liable.

C. All road and bridge hazard claims are to be submitted, in writing, to the Office of Risk Management on the DOTD/ORM Report of Road Hazard Incident form. Forms can be obtained from the Office of Risk Management's Road and Bridge Hazard Claims Unit or on the ORM web site, www.doa.louisiana.gov/orm.

D. Claims are to be submitted, in writing, to the Office of Risk Management, P.O. Box 91106, Baton Rouge, LA 70821-9106.

E. If a loss is serious in nature, it is to be reported by telephone to the Office of Risk Management for review to determine if coverage is applicable.

F. Claims which are made against a state agency by a third party are to be submitted to the Office of Risk Management for review to determine if coverage is applicable.

G. All lawsuits, demands, notices, summons, or other legal documents pertaining to a claim against a state agency are to be forwarded immediately to the Office of Risk Management's Claim Office for further handling.

H. Any objects and/or products which may have caused, contributed to, or which are suspected of causing an accident are to be retained and preserved as evidence.

I. If a loss or a claim arises, the agency is not to assume any obligation or incur any expenses without authority from the Office of Risk Management.

J. It would be the responsibility of the district office of the Department of Transportation and Development to verify the following:

1. that the alleged accident occurred on a state maintained highway/road;
2. existence of the damage;

3. whether the state had knowledge of the defect prior to the alleged accident;

4. the existence of any contract which may exist between the state and any municipality, contractor or other party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 15:85 (February 1989), amended LR 30:

§3121. Claims Unit Contacts

A. For further information on reporting a claim or requesting information regarding a specific claim, contact the Office of Risk Management, in writing, at P.O. Box 91106, Capitol Station, Baton Rouge, LA 70821-9106 or telephone the appropriate claims unit.

Unit	Contact the Following Telephone Number(s)
Claims-Administrative	(225) 219-0012 or (225) 219-0168
Property	(225) 342-8399
1. Buildings and Improvements. Contents and equipment, excluding Boiler and Machinery. 2. Boiler and Machinery 3. Bonds and Crime	
Transportation	(225) 342-8466
1. Auto Liability 2. Automobile Comprehensive and Collision 3. Aviation 4. Wet Marine	
General Liability-All Comprehensive General Liability	(225) 342-8463
Medical Malpractice	(225) 342-8442 (225) 219-0868
Workers' Compensation	(225) 342-7390 or (225) 342-8451 or (225) 342-8458
1. Statutory and Employer's Liability 2. Maritime Compensation	
Road and Bridge Hazards-All Road and Bridge Hazards	(225) 342-5441 or (225) 219-4846
Subrogation	(225) 342-8446

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 15:86 (February 1989), amended LR 30:

Chapter 32. Risk Analysis and Loss Prevention

§3201. Risk Analysis and Loss Prevention

A. R.S. 39:1543(l)(C) requires the development of a comprehensive loss prevention program, for implementation by all state agencies, including basic guidelines and standards of measurement.

B. In order to fully comply with this statute a comprehensive loss prevention plan has been developed, and the following are to be implemented by every state department, agency, board, or commission that employs 15 or more employees.

Any Other Loss Prevention Program developed by the Office of Risk Management, Loss Prevention Unit in conjunction with the Interagency Advisory Council for the prevention and reduction in accident events that may cause injury, illness, or property damage.

Aviation Operator Safety Program program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or operate state-owned aircraft in the scope of their employment.

Boiler and Machinery Program written Loss Prevention maintenance program to include, but not limited to, a history of each piece of equipment, designate responsibility, schedule of when maintenance is to be performed, list of equipment to be maintained, how maintenance is to be performed.

Driver Safety Program program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or drive state-owned vehicles or personal vehicles in the course and scope of their employment.

Employee Training training to establish a systematic method of training employees to perform the required tasks in a safe and efficient manner and to insure all employees receive periodic refresher training.

First Aid adoption of a first aid program which will provide a trained first aid person at each job site and shift. This policy covers all facilities and crews.

Hazard Control Program program to establish a systematic method of recognizing, evaluating, and controlling hazards prior to them producing injury, illness, or property damage.

Housekeeping Program program to provide a method for systematically inspecting and eliminating safety and fire hazards that result from uncontrolled sources. To establish clearly defined areas of responsibility for orderliness and cleanliness through each state-owned or operated grounds and facilities.

Inspections Program a program to maintain a safe environment and control unsafe acts, roadway hazard inspection reports, and medical malpractice records.

Investigation Program a program to thoroughly investigate and identify, as soon as possible, the actual causes and contributing factors of losses in an attempt to prevent recurrences.

Job Safety Analysis a procedure to be used to review job methods and hazards that relate to the work environment. The job safety analysis should be performed on all tasks or processes that have a higher than normal rate of producing bodily injury or property damage.

Management Policy Statement an expression of management, philosophies and goals toward safety.

Record Keeping records to establish a procedure for the uniform development and maintenance of loss prevention and control documents to be retained for one year. This will include inspection reports, accident investigation reports, minutes of safety meetings, training records, boiler and machinery maintenance records, and/or conditions by regular and periodic facility equipment and roadway inspections.

Responsibility for Safety in an Organization a written document to clearly define supervisory responsibilities at all levels.

Safety Meetings meetings to be conducted by supervisors with employees on a quarterly basis, unless otherwise specified by ORM, to educate, inform, motivate and examine work practices for potentially unsafe acts that

could produce bodily injury and provide a method to preclude recurrences.

Safety Rules general instructions developed by agencies regarding the employees' responsibilities.

Water Vessel Operator Safety Program program to provide a systematic method of screening, training, and accountability for employees and supervisors required to assign or operate state-owned water vessels in the scope of their employment.

C. The minimum requirements are in no way intended to require revisions of existing safety plans which meet or exceed these minimum requirements. However, these existing plans are to be submitted to the Loss Prevention Unit for review and acceptance.

D. The Loss Prevention Unit will audit each department, agency, board, or commission to insure compliance of the development, implementation, and adherence to the program. Audits will be conducted once a year or more often using the audit schedule. The deadline for certification will be April 30 of each year for insurance premiums for the following fiscal year. Any agency, board or commission found to be in compliance with state law and loss prevention standards prescribed by the Office of Risk Management shall receive a credit to be applied to the agency's annual self-insured premium per line of insurance coverage, excluding the coverages for road hazards and medical malpractice, equal to 5 percent of the agency's total annual self-insured premium paid per line of coverage. An agency which has failed to receive certification after undergoing a loss prevention audit shall be liable for a penalty of 5 percent of the agency's total annual self-insured premium paid per line of coverage, excluding the coverages for road hazards and medical malpractice. Such compliance will be certified by major risk groups as follows:

1. workers compensation regular;
2. workers compensation maritime;
3. general liability;
4. auto liability and auto physical damage;
5. property and inland marine;
6. boiler and machinery;
7. bond and crime risk;
8. aviation;
9. marine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1527.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 14:349 (June 1988), amended LR 15:86 (February 1989), LR 30:

Chapter 33. Law Enforcement Officers' and Firemen's Survivor Benefit Review Board

§3301. Survivors Benefits

A. Purpose

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533.A, 33:1981, 33:1947, and 33:2201.B.

2. To govern the submission, evaluation and determination of claims submitted pursuant to R.S. 33:1947, 33:2201, and 33:1981.

B. Application

1. The rules will apply to all claims arising from RS 33:1947, 33:2201, and 33:1981.

C. Definitions

Act refers to Act 308 of 1989.

Board the Law Enforcement Officers and Firemen's Survivors Benefit Board.

Child as defined in 33:1947.C.(1).

Fireman as defined in R.S. 33:1981.B.

Law Enforcement Officer as defined in R.S. 33:2201.B(1)-33:2201.B(17).

Line of Duty any activity performed in which a law enforcement officer suffers death as a result of:

- a. an injury arising out of and in the course of the performance of his official duties; or
- b. arising out of any activity while on or off duty, in his official enforcement capacity, involving the protection of life or property.

Qualifying Claim those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

Spouse as defined in 33:1947.C(1).

D. Board Membership and Domicile

1. The board's official domicile will be located in Baton Rouge. All claims hearings, presentations etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be on a rotation basis as follows: attorney general, legislative auditor, and state risk director. The term of each chairman is limited to two years. The attorney general's term shall begin effective September 19, 1989.

2. The board will be comprised of those individuals or their designees as stated in R.S. 33:1947.A.

E. Claims Requests

1. All claims shall be submitted by certified mail to the chairman of Louisiana Law Enforcement and Firemen's Survivors Benefit Board through the Department of Justice-Attorney General.

2. All claim requests must include the following documentation:

- a. notarized affidavit of event(s), reference by the claimant, of the appointing authority of the jurisdiction involved;
- b. original death certificate of law enforcement officer or firemen involved;
- c. validated marriage license of spouse;
- d. validated birth certificate of children or judgment of adoption;
- e. validated investigative report of the event generating the claim;
- f. affidavit of employment from the appointing authority;
- g. affidavit of divorce existed at the time of the law enforcement officer's or fireman's death.

F. Procedures for Hearings

1. Upon receipt of a claim, the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

2. The chairman shall notify the board members, claimant, and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

3. At the hearing date described the board shall officially receive and act upon all claims received.

4. The board may, at its discretion, entertain additional oral presentations from outside parties regarding the claim.

5. The board shall have the following options with regards to the claim action:

- a. approval of the qualifying claim;
- b. denial of the claim;
- c. deferral pending receipt of additional data.

6. The board shall inform the claimant, in writing, of its determination.

7. If approved, the board chairman shall certify to the commissioner of Administration and request payment in accordance with 39:1533.

G. Appeals

1. There shall be no right of appeal to the board of any decision rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1947, R.S. 33:1981, R.S. 33:2201, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 30:

Subpart 3. Worker's Compensation Fee Schedule

Chapter 51. Fees

§5101. Fee Schedule

A. The director, Office of Risk Management, Division of Administration, pursuant to notice of intent published December 20, 1987, and pursuant to provisions of R.S. 23:1203.1 and R.S. 39:1527 et seq., adopted effective April 1, 1988 a fee schedule for medical, surgical, and hospital services due under the Louisiana Worker's Compensation Act, R.S. 23:1021.1361, and which arise in the state self-insured worker's compensation cases. Effective, July 1, 1994, the Office of Risk Management began utilizing the Medical Fee Schedule promulgated by the Office of Workers' Compensation in accordance with R.S. 23:1034.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1, R.S. 39:1527 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Risk Management, LR 14:148 (March 1988), amended LR 16:401 (May 1990), LR 30:

Interested persons may submit written comments by 4 p.m. on October 8, 2004, to Tommy Arbour at Office of Risk Management, Division of Administration, P.O. Box 91106, 1201 N. Third Street, Baton Rouge, LA 70821-9106, phone (225) 342-8472.

J.S. "Bud" Thompson, Jr.
State Risk Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Reporting of Claims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule outlines the process of submitting claims in a timely fashion. Claims submitted as they occur allows the Office of Risk Management to process the claim with current data and subrogate back against negligent parties to recover state funds. The changes to Title 4 involve removing the exemption of LSU from under the jurisdiction of Risk Management. This change was made by Statute and is being updated to reflect current law. Changes to Title 37 are

technical. These were done to update current telephone numbers., addresses, and claim reporting language.

Therefore, there will be no implementation cost or savings to any government unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units as the process of processing claims will stay the same.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no directly affected persons or on-governmental groups. The changes are either technical in nature or the process is already in use by Risk Management.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment.

Patricia H. Reed
Assistant Director
0409#075

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Financial Institutions

Bank and Thrift Powers
(LAC 10:V.301, 701,703, 901, 903, 905, 1101-1135,
1301-1313, 1321-1333, 1341-1353, and 1521-1539)

In accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, the Commissioner of the Office of Financial Institutions approved for advertisement the repeal of Chapters 3, 7, 9, 11, 13, and 15, respectively titled, General Provisions; Mergers; Insurance; Powers of Homesteads and Building and Loan Associations; Forward Commitments, Future Transactions, Financial Option Transactions; and Related Organizations and Services, from the Louisiana Administrative Code. This action is being effectuated because the Office of Financial Institution's parity provisions allow Louisiana state-chartered banks and thrifts to exercise those powers allowed by national banks and federal thrifts; many of the Rules proposed for repeal simply restate the powers that are now provided to state banks and thrifts as a result of the parity provision; and many of the Rules are deemed duplicative as a result of statutory changes in federal and state law, regulations and policy statements.

There is no family impact associated with this proposed Rule.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part V. Thrifts

Chapter 3. General Provisions

§301. Credit Card Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:237.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 4:268 (August 1978), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 7. Mergers

§701. Plan of Merger

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.6:861, R.S. 6:902(B) and R.S. 6:903.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:59 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§703. Vote by Members

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:861, R.S. 6:902(B) and R.S. 6:903.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:59 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 9. Insurance

§901. Reservation of Right Concerning Advertising

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:706 and R.S. 6:948.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:415 (August 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§903. Other Insurance or Guaranty

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:948.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:415 (August 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§905. Inconsistent Conditions of Insurance or Agreements for Operating Policies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:948.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:415 (August 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 11. Powers of Homesteads and Building and Loan Associations

Subchapter A. Mortgages

§1101. Renegotiable Rate Mortgage Instruments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:720 (December 1980), amended LR 7:165 (April 1981), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1103. Wrap-Around Mortgages

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 7:165 (April 1981), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1105. Commercial Real Estate Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:902.1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1107. Residential Real Property Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.6:902(B). (B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:144 (April 1980), amended LR 8:138 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1109. Balloon-Payment Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:092(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:138 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1111. Variable Rate Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B), R.S. 6:25.1 and R.S. 9:3554(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:232 (May 1982), amended LR 9:59 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1113. Commercial Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B), R.S. 6:902.1 and R.S. 6:822(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:61 (February 1982), amended LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1115. Consumer Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B), R.S. 6:902.1 and R.S. 9:3510 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:412 (August 1980), amended LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1117. Loans Originating from Other than Savings and Loan Associations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:61 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1119. Loans to One Borrower

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:822(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:61 (February 1982), amended LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1121. Restrictions Involving Loan Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:948.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:416 (August

1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1123. Cashier's Checks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:61 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1125. Demand Deposits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:902.1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1127. NOW Accounts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:701 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:715 (December 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1129. Governmental NOW Accounts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:902.1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:60 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1131. Governmental Depositories

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:50 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1133. Credit Cards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and R.S. 6:701.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 6:412 (August 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1135. Trusts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institution, LR 6:412 (August 1980), amended LR: 6:715 (December 1980), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 13. Forward Commitments, Future Transactions, and Financial Option Transactions

§1301. Generally

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:50 (February

1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Subchapter A. Forward Commitments

§1303. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1305. Authorized Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1307. Limitations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1309. Disposal before Settlement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1311. Recordkeeping Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1313. Commitment Fees Received

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Subchapter B. Futures Transactions

§1321. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1323. Permitted Transactions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February

1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1325. Authorized Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1327. Board of Director's Authorization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:51 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1329. Notification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1331. Recordkeeping Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1333. Accounting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Subchapter C. Financial Option Transactions

§1341. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1343. Permitted Transactions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1345. Authorized Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1347. Board of Director's Authorization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:52 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1349. Notification and Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:53 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1351. Recordkeeping Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:53 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1353. Accounting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 9:53 (February 1983), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Chapter 15. Related Organizations and Services

Subchapter B. Remote Service Units

§1521. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1523. Application of Regulation E

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1525. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1527. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1529. RSU Access Techniques

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1531. Service Charges

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1533. Privacy of Account Data

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1535. Bonding

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1537. Security

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1539. Commissioner

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Financial Institutions, LR 8:62 (February 1982), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Interested persons may submit comments until 4:30 p.m., October 20, 2004, to Gary L. Newport, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095.

John Ducrest, CPA
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bank and Thrift Powers**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no added or reduced costs associated with the repeal of these rules. The rules presently provide various powers, limitations and parameters under which Louisiana state-chartered banks and thrifts may conduct business.

OFI parity provisions allow Louisiana state-chartered banks and thrifts to exercise those powers allowed by national banks and federal thrifts. Many of the rules proposed for repeal simply restate the powers that are already available to state banks and thrifts as a result of the parity provision. Therefore, many of these rules are deemed duplicative and are proposed for repeal.

Many other rules have become obsolete as a result of changes in comparable federal regulations. As a result, these rules are proposed for repeal. Federal regulations sufficiently address a number of areas which are duplicated in these rules proposed for repeal.

In addition, several rules cover areas that are sufficiently addressed in existing state statutes, rules, and OFI policy statements. Therefore, these rules are deemed duplicative and are proposed for repeal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenues associated with the repeal of these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs or economic benefits associated with the repeal of these rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors as a result of the repeal of these rules.

John Ducrest, CPA
Commissioner
0409#084

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Limited Function Financial Institutions
(LAC 10:III.901-911)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Commissioner of the Office of Financial Institutions approved for advertisement the repeal of Chapter 9, Limited Function Financial Institutions, from the Louisiana Administrative Code. This action is necessary because the statutory authority for this Rule was repealed by Acts 1991, No. 197, §1, eff. July 2, 1991, and the commissioner no longer issues certificates of authority for such entities.

There is no family impact associated with this proposed Rule.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part III. Banks

Chapter 9. Limited Function Financial Institutions

§901. Applications; Filing, Processing, and Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:859 (December 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§903. Certificate of Authority; Issuance, Refusal, and Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:200 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§905. Certificate of Authority; Powers and Authority; Prohibitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§907. Records and Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§909. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§911. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:202 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Interested persons may submit comments until 4:30 p.m., October 20, 2004, to Gary L. Newport, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095.

John Ducrest, CPA
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Limited Function Financial Institutions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no impact on costs/savings associated with this rule repeal. This rule presently provides the parameters under which Louisiana state-chartered limited function financial institutions are organized, approved, certified, renewed, and empowered. The rule also lists recordkeeping requirements, prohibited activities, and penalties for violations.

OFI discontinued issuing certificates for limited function financial institutions, thereby rendering this rule obsolete and no longer necessary.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenues associated with this rule repeal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on costs or economic benefits associated with this rule repeal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors as a result of this rule repeal.

John Ducrest, CPA
Commissioner
0409#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Repossession Agents
(LAC 10:XV.1301-1321)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Office of Financial Institutions proposes to enact rules regarding licensure and regulation of repossession agents. Repossession Agents are individuals who physically obtain possession of collateral for a secured party and engage in the business or accept employment to locate and recover collateral pursuant to the Louisiana Default Remedies Act, R.S. 6:965, et seq.

For the full text of this proposed Rule see the Emergency Rule portion of this *Louisiana Register*.

There is no family impact associated with this proposed Rule.

Interested persons may submit comments until 4:30 p.m., October 20, 2004, to Gary L. Newport, General Counsel, and P.O. Box 94095, Baton Rouge, LA 70804-9095.

John Ducrest, CPA
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Repossession Agents**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 191 of the 2004 Legislative Session charges the Office of Financial Institutions (OFI) with licensing and regulation of repossession agents. There are an estimated 100 repossession agencies employing some 500 repossession agents and apprentices in Louisiana. The OFI will need 5 additional employees at varying levels to accomplish this. Total estimated costs of implementing the program for the first fiscal year is \$183,630 that will be incurred in the latter half of the fiscal year and represents 6 months of expenses. Estimated expenses for fiscal year 2005-06 total \$330, 182 for the 12 month period.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Each repossession agency will pay an initial application fee of \$1,500 and annual license renewals thereafter at \$1,000 each. Each repossession agent and apprentice will pay an initial application fee of \$400 and annual license renewals thereafter at \$300 each. Total estimated revenue for 2004-05 is \$350,000 and \$250,000 annually thereafter. Examination fees will be assessed at the rate of \$50 per hour per examiner with a maximum examination fee of \$1,000. Actual travel expenses for out-of-state examinations, if needed, will be reimbursed by the licensee examined.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that each agency will employ 5 agents (average) that will pay initial application fees of \$2,500 initially and \$2,500 annually thereafter to renew the licenses of the agency and their agents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of this proposed rule.

John Ducrest, CPA
Commissioner
0409#081

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Savings and Loan Holding Companies
(LAC 10:V.1141, 1143, and 1145)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Commissioner of the Office of Financial Institutions approved for advertisement the repeal of Subchapter B., Savings and Loan Holding Companies, from the Louisiana Administrative Code. This action is necessary because the primary regulator and chartering authority for savings and loan holding companies is the Federal Office of Thrift Supervision, thus this Rule is rendered obsolete and no longer necessary. Repeal of this Rule will ensure consistent treatment for all holding companies of banks, savings banks, and savings and loan associations.

There is no family impact associated with this proposed Rule.

**Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part V. Thrifts

Chapter 11. Powers of Homesteads and Building and Loan Associations

Subchapter B. Savings and Loan Holdings Companies

§1141. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and 6:903.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:225 (April 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1143. Formation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and 6:903.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:225 (April 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

§1145. Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:902(B) and 6:903.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:226 (April 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:

Interested parties may submit comments until 4:30 p.m., October 20, 2004, to Gary L. Newport, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095.

John Ducrest, CPA
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Savings and Loan Holding Companies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no impact on costs/savings associated with this rule repeal. This rule presently provides the parameters under which a holding company for Louisiana state-charged savings and loan associations may be established, operated, and regulated.

Because the Office of Thrift Supervision (OTS) is the primary regulator of and the chartering authority for S&L holding companies, this rule is rendered obsolete and no longer necessary. Furthermore, holding company examination fees are already addressed in LAC 10:V.I.303. OFI has no comparable rules for bank holding companies or savings bank holding companies. Repeal of this rule will help ensure consistent treatment for all holding companies of banks, savings banks, and savings and loan associations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenues associated with this rule repeal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs associated with this rule repeal. However, this will enhance the franchise value of a state-chartered savings and loan association by eliminating the \$1,000 regulatory fee that is assessed a savings and loan association that forms a de novo parent holding company in a stock conversion or mutual holding reorganization.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors as a result of this rule repeal.

John Ducrest, CPA
Commissioner
0409#082

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Embalmers and Funeral Directors
(LAC 46:XXXVII.Chapters 1-23)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 37:840 notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to amend LAC 46:XXXVII, Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, and 23. Additionally, Chapters 12 and 20 have been added. The board finds it necessary to revise, amend and/or add provisions of the rules, regulations and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance understanding of these changes, as well as to advise of fee changes which have been passed by the legislature.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXVII. Embalmers and Funeral Directors

Chapter 1. General Provisions

§101. Definitions

A. The terms *Board*, *Embalmer*, *Funeral Directing*, *Funeral Director*, *Crematory*, *Crematory Retort Operator*, *Intern*, and *Certificate*, are as defined in Section 831 of the embalming statute, as amended by Act 19 of 1966 and Act 1243 of 2003.

B. *Establishment* a licensed funeral home which shall consist of the following: adequate parlors or chapel, adequate separate toilet facilities for both men and women, an adequate climate control system, display room, office or arrangement room, embalming room and other furnishings, equipment and facilities of suitable and dignified quality with signage sufficient to be visible from the street to adequately serve the public.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR. 30:

§103. Duties of Officers

A. The president shall be the presiding officer at all meetings and is required to call a meeting at least once a year or more often, if necessary, for the proper and efficient performance of the board's functions. In the absence of the president, the vice president shall assume these duties.

B. The secretary shall keep a record of the proceedings of all meetings of the board and of all other matters of which a record shall be ordered by the board. He shall issue all notices of meetings of the board; prepare an agenda for and keep minutes of such meetings, and a record of individual attendance at the meetings of the board; and shall perform all such other duties as are usually incident to his office or as may be required by the president or the board.

C. The duties of the treasurer shall be to comply with R.S. 37:838 of Act 19, 1966.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§105. Special Meetings

A. Special meetings of the board may be called by the president at any time. Special meetings may also be called upon the written request of three members, which request must specify the purpose of the meeting, and the president then shall call such a meeting. Notice of such special meeting specifying the purpose thereof shall be mailed by the secretary to each member at least five days in advance of the date set for such special meeting.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:831 and R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§107. Advertising

A. The use of misleading or false advertising will constitute unprofessional conduct. The following classes of advertising shall be deemed to be misleading:

1. advertising the price of caskets exclusively, without stating that the price does not include other merchandise and services, since the natural inference of the public is that the advertised price of caskets includes the price of the service;

2. offering service at "cost" plus a percentage, when the determination of the "cost" lies within the control of the funeral director or embalmer and is not advertised and included within the General Price List of the funeral home;

3. advertising or sale of certificates or stock participation or any form of agreement which creates the impression with the purchaser, when such is not a fact, that he becomes a part owner in the advertiser's establishment and therefore entitled to special price privileges for funeral services;

4. advertising which impugns the honesty, trustworthiness, of the business or professional standards of competitors, or which states that the prices charged by competitors are considerably higher than those charged by the advertiser, when such is not the fact;

5. advertising which represents the advertiser to be the special defender of the public interest or which makes it appear that the advertiser is subjected to the combined attack of competitors. Such expressions as "independent," "not in the trust," "not controlled by the combine," and other expressions having the same import shall be deemed to be misleading unless it be shown by the advertiser that there is a "trust," or a "combine" and that other funeral directors constitute a monopoly for the purpose of maintaining prices or for any other purpose; and the burden of proving such "trust," "combine," or "monopoly" shall be upon the advertiser asserting the existence of the same.

B. It is prohibited for a licensed funeral establishment to authorize advertising by others not licensed by this board, when such advertising offers services and/or merchandise primarily performed and offered by a licensed funeral director/embalmer and establishment, as defined in R.S.

37:831-861. Such advertising shall be considered as an inducement when used along with or in conjunction with plans, merchandise, pre-need plans, or the like which are normally sold by others. The above rule does not, however, prohibit a licensed funeral establishment from advertising an affiliation with an insurance company.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 4:227 (June 1978), LR 5:279 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§109. Attire for Embalmers and Crematory Retort Operators

A. Each Louisiana licensed embalmer or intern, while engaged in embalming a dead human body, shall be attired in a clean and sanitary smock or gown; and the body being embalmed shall at all times be covered so as to insure the privacy of said body.

B. Each Louisiana licensed embalmer or intern, while engaged in embalming a dead human body, shall be properly attired to provide for his/her own safety as well as the safety of others and in that regard, it is suggested that the proper attire of the embalmer or intern shall include the following:

1. a sanitary waterproof disposable gown, apron or smock;

2. clean and sanitary rubber or latex gloves;

3. a mask or some other type of protective shield for eye and face protection; or

4. any other applicable safety devices required by OSHA.

C. Protective clothing should be removed before leaving the preparation room and deposited within a container that can be properly disposed of in accordance with governmental codes covering such disposals.

D. Every crematory authority shall make available for use by the crematory retort operator, while engaged in the process of cremating a dead human body, heat resistant gloves and apron; protective face shield (heat reflective); and, any other applicable safety devices required by OSHA.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), amended LR 30:

§111. Mandatory Disclosure

A. Every funeral establishment in this state and/or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements, either at need or pre-need, or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service and/or providing the merchandise, a written statement showing to the extent then known:

1. the price of the service that the person or persons have selected and what is included therein;

2. the price of each of the supplemental items of service and/or merchandise required;

3. the amount involved for each of the items for which the firm will advance monies as an accommodation of the family;

4. the method of payment.

B. If the funeral establishment charges for purchasing a cash advance item, or if it receives and retains a rebate, commission, or trade or volume discount for a cash advance item, it must make the following disclosure:

"We charge you for our services in obtaining: (specify cash advance items)."

C. All funeral merchandise and/or services offered by a licensed establishment in this state shall be available for viewing by the general public and the price shall be prominently displayed on or immediately next to the merchandise or service.

D. Should a funeral home be designated in a pre-need funeral arrangement contract and designated further as a beneficiary of funds from any source which are to be used to fund the proposed funeral service, and should a funeral service not be provided, then the said funeral home shall refund the entire amount of the proceeds received to the estate of the deceased, unless directed otherwise within the pre-need funeral arrangement contract.

E. If for any reason the casket and/or merchandise selected at the time of the prepaid, pre-need arrangement contract is not available at the time of death, then the funeral home must offer a similar casket and/or merchandise that is equal to or greater than the at-need value of the casket and/or merchandise selected at pre-need.

F. Disclosures as required by the FTC's Funeral Industry Practices Rule must be provided to the person or persons inquiring about and/or making funeral arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 17:1101 (November 1991) amended LR 30:

§113. Right of Care of Remains

A. A funeral establishment, its employees, and licensees shall not respond to a death call unless properly contacted and requested.

B. When determining the right of care of remains the funeral establishment shall look to the provisions of R.S. 8:655 as a guideline to determine the order of preference in dealing with representatives of the deceased for interment and/or the provisions of R.S. 37:876 as a guideline as it relates to cremation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:1423 (November 1993), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 3. Application

§301. Application Forms

A. Applications for a funeral director license or a combination embalmer and funeral director license shall be made on forms as provided by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 5:277 (September 1979), repromulgated

by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§303. Notarization; Fee

A. Application for license shall be sworn to by applicant before a notary public and be accompanied by a fee as established by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§305. Filing of Application

A. Applications shall be filed with the secretary of the board after the completion and successful passing of the examination, or certification procedure as mandated by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 5. Examination

§501. Place and Time

A. Examinations shall be held at those times as the board may deem necessary and expedient either:

1. at the domicile of the board; or
2. at such other location(s) as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:744 (June 1993), LR 30:

§503. Examination for Funeral Directors

A. Applicants for a funeral director's license shall be given a written and/or oral examination on subjects approved by the board. These subjects include but are not limited to the following:

1. sociology/funeral history;
2. psychology;
3. funeral directing;
4. business law;
5. funeral service law;
6. funeral service merchandising;
7. accounting/computers;
8. may include a Louisiana laws and regulations test;

and

9. any other such subjects as the board may deem necessary.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 30:

§505. Examination for Combination Embalmer and Funeral Director

A. Applicants for a combination embalmer and funeral director license (hereinafter referred to as "combination license") shall be given a written and/or oral examination on subjects defined in courses required by the American Board of Funeral Service Education and laws, rules, and regulations of the state of Louisiana, together with any such other subjects as the board may deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:744 (June 1993) amended LR 30:

§506. Certification of Crematory Retort Operator

A. Applicants for a crematory retort operator shall be certified in the operation of a crematory retort by a certified instructor and a process approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§507. Failure to Appear

A. Whenever an applicant shall fail to be present for examination at the time and place set by the board, said applicant shall comply with the requirements of the testing or certifying agency as approved by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§509. Failing Examination

A. Any applicant for a funeral director or combination license whose application has been accepted by the board, and who shall fail in an examination shall not be entitled to the return of the examination fee. In order to qualify for subsequent examinations, applicant must reapply as provided in R.S. 37:842. In addition, the board, at its discretion, may stipulate certain requirements that deal with preparation and study for the re-examination.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985) repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§511. Cheating

A. Any applicant found to have in his possession material of any nature which, in the opinion of the board, may be used to assist in the examination, shall forfeit the fee paid and be ejected from the examination and may not be entitled to any further consideration.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors,

August 1966, promulgated LR 5:277 (September 1979) amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§513. Passing Examination

A. When the applicant for a combination license has complied with all requirements, and receives a passing grade of not less than 75 percent on the examination, he shall be entitled to receive a license to practice embalming and funeral directing.

B. When the applicant for a funeral director license has complied with all requirements, and receives a passing grade of not less than 75 percent on the examination for funeral directing, he may be entitled to receive a funeral director license.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), LR 17:271 (March 1991), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 7. License

§701. Renewal and Reinstatement

A. All individual funeral director or combination licenses issued by the board shall expire on the thirty-first day of December of each year and must be renewed on or before that date. All establishment licenses and the *Annual Report of Prepaid Funeral Services or Merchandise* shall also expire on the thirty-first day of December and must be renewed on or before that date. Applications for renewal of licenses must be made to the secretary of the board upon forms furnished by said board and must be accompanied by a renewal fee as established by the board.

B. Application for renewal of a funeral director or combination license and establishment license may be submitted to the board any time after October 1 of each year. When a licensed funeral establishment or individual licensee renews the license, should the check be deficient in any manner, the license shall be considered as non issued and a new application and fee must be submitted.

C. When the holder of a combination or funeral director license has failed to renew his license on or before December 31 of each year, said license shall lapse and a new application and fee must be submitted. In any event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement.

D. When a licensed funeral establishment fails to renew its license on or before December 31 of each year, said license shall lapse. However, same may be reinstated provided that the applicant shall submit to an inspection; and, if the board is satisfied that the applying funeral establishment meets all requirements, it shall issue a license for the remaining portion of the current year upon payment of the application fee as established by the board.

E. As all license applications for combination, funeral director, or funeral establishments are received, the board will process same in a timely fashion and will begin mailing the licenses to the individuals and establishments so applying no later than December 15 of each year.

F. All individual crematory retort operator licenses issued by the board shall expire on the fifteenth day of May of each year and must be renewed on or before that date. All

crematory licenses issued by the board shall also expire on the fifteenth day of May and must be renewed on or before that date. Applications for renewal of licenses must be made to the secretary of the board upon forms furnished by said board and must be accompanied by a renewal fee as established by the board.

G. Application for renewal of a crematory retort operator or crematory license may be submitted to the board anytime after February 15 of each year. When a licensed crematory or individual crematory retort operator renews the license, should the check be deficient in any manner, the license shall be considered as non issued and a new application and fee must be submitted.

H. When a crematory retort operator has failed to renew his license on or before May 15 of each year, said license shall lapse. If the crematory retort operator has failed to renew within the specified time, the license shall be considered as non issued and a new application and fee must be submitted. In any event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement.

I. When a crematory has failed to renew its license on or before May 15 of each year, said license shall lapse. However, same may be reinstated provided that the applicant shall submit to an inspection; and, if the board is satisfied that the applying crematory meets all requirements, it shall issue a license for the remaining portion of the current year upon payment of the application fee as established by the board.

J. As all crematory retort operator and crematory authority applications are received, the board will process same in a timely fashion and will begin mailing the licenses to the individuals and the crematories so applying no later than May 1 of each year.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, LR 4:227 (June 1978), LR 5:279 (September 1979), LR 11:687 (July 1985), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:

§703. Duplicate Certificate

A. Any person holding a certificate issued by this board and desiring a duplicate thereof, may obtain same from the secretary of the board upon application accompanied by a fee as established by the board and an affidavit to the effect that same has been misplaced, lost, destroyed or stolen.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§705. License Not Assignable

A. No license shall be assignable or valid for any other person other than the original licensee. A corporation or firm may engage in funeral directing or embalming and hold out to the public that it is engaged in the business of funeral directing or embalming, when and only when, all embalming and funeral directing is performed by or under the direct and

personal supervision of an embalmer or funeral director, duly licensed hereunder.

B. No individual licensed by this board shall be employed to perform the services of funeral directing or embalming as defined in R.S. 37:831 in any capacity for an establishment not licensed in this state.

C. No individual licensed by this board shall be employed to perform the services of cremation as defined in R.S. 37:831 in any capacity for a crematory not licensed in this state.

D. A corporation or firm may engage in the business of cremation and represent that it is engaged in the business of cremation, when and only when, all cremations are performed by or under the direct and personal supervision of a retort operator, duly licensed hereunder.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§707. Reciprocal License Requirements

A. Any person desiring a reciprocal Louisiana combination license or funeral director license shall, before practicing, make application on forms furnished by the board, for a "Special Work Permit" to practice embalming and/or funeral directing for a period of six months. Said application shall be accompanied by a permit fee as established by the board, which is not refundable. If applicant meets all requirements, the secretary shall issue a special work permit. The board may, at its discretion, extend the special work permit period.

B.1. All of the requirements of R.S. 37:842(A)(1), (2), (5) and (C)(1) and (4) shall be met by applicant for a combination license and successfully pass an examination on Louisiana laws, rules, and regulations.

2. All of the requirements of R.S. 37:842(A)(1), (2), and (5) shall be met by applicant for a funeral director license and successfully pass an examination on Louisiana laws, rules, and regulations.

C. No special work permit or reciprocal license shall be issued on a special work permit or reciprocal license.

D.1. The special work permit or reciprocal license entitles the licensee to practice embalming and/or funeral directing in this state. However, it shall become null and void if the original license is revoked, suspended, or lapsed.

2. The holder of a special work permit or reciprocal license must be a resident of this state in order to hold a valid special work permit or reciprocal license. The board recognizes that if a reciprocal is fully employed in this state and a resident of this state for a period of five consecutive years his license then becomes a bona fide Louisiana license.

3. The reciprocal licensee may at any time leave the state, continue to hold his license but not be allowed to practice in Louisiana while a resident of another state. If he elects to continue to hold his reciprocal license while a nonresident he may do so. If he should become a Louisiana resident at a later time he will become reinstated as a valid reciprocal state licensee with no additional application fee.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors,

August 1966, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§709. Continuing Education

A. In order to ensure that all licensees maintain and improve upon their professional skills, each person holding a combination license or funeral director license issued by the board is required to participate in continuing education as a condition for renewal of license(s) subject to the conditions described herein.

B. Definitions

Accredited Sponsor—A person or organization conducting or sponsoring a specific program of instruction which has been approved by the board.

Active Licensee—An individual licensed by the board and either practicing funeral directing or embalming in any capacity in this state.

Approved Program—Continuing education program activity which has received prior approval by the board.

Hour of Continuing Education—A 50-minute clock hour completed by a licensee in attendance at an approved continuing education program.

Inactive Licensee—An individual licensed by the board but not practicing funeral directing or embalming in any capacity in this state.

Program Instructor—A person who conducts or presents the Continuing Education to the licensees.

C. Standards for Course Approval. A continuing education activity will be considered for approval if the board, or the executive director on behalf of the board, determines that:

1. it constitutes an organized program of learning that contributes directly to the professional competence of the licensee;
2. it pertains to subject matter which relates to the practice of funeral directing, embalming, or, related subjects; and
3. it is conducted by an individual(s) who has specialized expertise in the subject matter; and
4. it is open and available to all licensees.

D. Approval of Sponsors, Program and Activities

1. Any person or organization who wishes to present an educational program must submit in a form approved by the board an application that outlines the course content, total hours of instructions, the date and location of training and the name(s) and professional qualifications of the instructor(s). Such application shall be submitted at least 30 days in advance of the proposed training and shall be accompanied by a non refundable fee in an amount set by the board. The executive director, on behalf of the board, shall either approve or reject the application within 20 days of application and shall so notify the applicant in writing.

2. Any licensee who seeks credit for participation in an educational activity that did not receive prior approval by the executive director may submit a request for post approval of the activity. Such application shall be in a form approved by the board and shall be submitted within 30 days of the completion of the activity along with a non refundable fee in an amount set by the board. The executive director, on behalf of the board, shall either approve or reject the application within 30 days of application and shall so notify the applicant in writing. No requests for approval shall be

accepted by the executive director less than 30 days prior to the license renewal date.

3. An appeal of denial of an application may be made, in writing, to the board who will rule on the appeal at the next scheduled board meeting. Such appeal must be filed in the board office within 15 days of notification of denial.

4. The board or its authorized representative may monitor, inspect or review any approved continuing education activity and upon evidence of significant variation in the program presented from the program approved, may disapprove all or any part of the approved hours granted the activity.

5. Any person or organization sponsoring or conducting an approved program shall submit, on a form approved by the board, a sworn affidavit attesting to the attendance and satisfactory completion of training of all persons in attendance. Such information shall be provided to the board within 15 days following the presentation of material. The board may initiate disciplinary action against any licensee who knowingly falsely certifies training or who attempts through subterfuge to bypass the requirements listed herein.

6. The accredited sponsor of an approved continuing education activity may charge a reasonable fee to that individual registered for the activity. An individual may not be required to pay an additional fee in the form of registration for ancillary activities or events that are concurrent to the approved continuing education activity if the individual wishes only to attend the continuing education portion of the program.

E. Continuing Education Requirements

1. All embalmers and/or funeral directors licensed by the board shall complete a minimum of four hours of approved continuing education in each period to coincide with the renewal date of the license as a requirement of license renewal.

2. Carryover of credit of continuing education hours shall be permitted but shall not exceed four hours.

3. The maximum credit hours for participation in any course shall not exceed that number approved by the board.

4. A licensee may not receive credit for the same course more than once during the same one-year period.

5. No credit shall be granted for partial completion of any continuing education activity unless the partially completed portion represents a full clock hour of said program.

6. A licensed individual who conducts an approved course may receive credit for attendance at continuing education.

F. Exemptions/Waivers

1. Continuing education requirements for individuals licensed by examination shall be waived for the first-time renewal of license.

2. Those individuals licensed in Louisiana but residing outside of the state and not practicing embalming or funeral directing in any capacity in this state shall be exempt from the continuing education requirements set forth in this rule. Any individual that returns to work in this state to practice embalming or funeral directing in any capacity shall meet the continuing education requirements as soon as possible. Credit may be given for approved Continuing Education Courses completed in another state.

3. Those persons in an "inactive" status will be exempted from the continuing education requirement. Any person changing from the "inactive" status to an "active" status shall meet the continuing education requirement as soon as possible.

4. Those persons in an active military status will be exempted from the continuing education requirement.

5. Upon request, the board, or the executive director on behalf of the board, may authorize partial or full exemption to the continuing education requirements based upon an extreme personal or family hardship. Such request must be made at least 30 days prior to the expiration of license and the board shall require documentation of hardship.

G. Record-Keeping Procedures

1. It shall be the responsibility of the board and the individual licensee to maintain records of continuing education.

2. All records pertaining to Continuing Education training will be retained by the accredited sponsor for a period of not less than two years and shall be subject to examination by the board.

H. Failure to Comply.

1. Failure by any licensee to fully comply with the continuing education requirement as presented by this Rule will not be allowed to renew their license. An individual will be allowed to reinstate the license only after application to the board, satisfactory completion of the required continuing education, and payment of an application fee as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:1378 (December 1994), repromulgated LR 21:175 (January 1995), amended LR 30:

Chapter 9. Internship

§901. Requirements for Combination License

A. Any person desiring to engage in the practice of embalming and funeral directing in this state, except those holding a Special Work Permit or a reciprocal license, shall serve as an intern within the state of Louisiana for one year and must meet the following requirements.

1. The intern shall serve his internship within the state of Louisiana for one year under the direct supervision of a Louisiana licensed embalmer/funeral director.

2. The intern shall have actively assisted in the preparation of at least 25 dead human bodies during his period of internship; shall have actively assisted in conducting at least 25 funerals during his period of internship; and, proper reports must be completed and submitted to the board on forms provided.

3. The intern must have a high school diploma or the equivalent GED certificate at the time of making application for internship.

4. While serving the term of internship, the intern must work on a full-time basis, that is a minimum of 40 hours per week. Half of the hours worked, on a weekly basis, must be worked between the hours 7 a.m. and 5 p.m. while the other half of the hours worked on a weekly basis may be served at any time.

5. The employment at the funeral home must be the intern's principal occupation.

6. The employment of the intern at the funeral home must be verified by the board during any of the required inspections of the intern. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment which is acceptable to the board.

7. A work schedule must be submitted with the intern's application showing hours to be worked and duties to be performed. Any changes or modifications within the original work schedule must be forwarded to the board's office within 14 days of the change.

8. The internship may be registered and the intern receive up to six months credit prior to matriculation in an accredited college of mortuary science (funeral service). The internship must be completed within 12 months after graduation from embalming school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), amended LR 30:

§903. Requirements for Funeral Director License

A. Any person desiring to engage in the practice of funeral directing within this state, except those holding a Special Work Permit or a reciprocal license, shall serve as an intern within the state of Louisiana for a period of one year and must meet the following requirements.

1. The intern shall serve as an intern within the state of Louisiana under the direct supervision of a Louisiana licensed funeral director for a period of one year.

2. The intern shall have actively assisted in conducting at least 25 funerals during the period of internship; and, proper reports must be completed and submitted to the board on forms provided.

3. The intern applicant must have a minimum of 30 semester hours in an accredited college or university as evidenced by a certified copy of the transcript of said college or university. The minimum subject hours shall include 21 semester hours of the basic freshman courses, which include but are not limited to the following: English, math, bookkeeping, accounting, business math, psychology, history, science, business administration, biology, economics, chemistry, and marketing or such other minimum hours as the law may provide. Remedial classes and courses such as music, the arts, physical education, and sports shall not be considered as accepted courses under the provisions of this rule.

4. The intern must work on a full-time basis, that is, a minimum of 40 hours per week, worked between the hours of 7 a.m. and 10 p.m.

5. Employment at the funeral home must be the intern's principal occupation.

6. The employment of the intern at the funeral home must be verified by the board during any of the required inspections of the intern. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official

form used to verify employment which is acceptable to the board.

7. A work schedule must be submitted with the intern's application showing hours to be worked and duties to be performed. Any changes or modifications within the original work schedule must be forwarded to the board's office within 14 days of the change.

8. The internship must be completed prior to taking the examination for licensure.

9. Upon completion of the internship of a funeral director applicant, the intern applicant must appear at the next examination scheduled except when a delayed appearance for good cause, acceptable to the board, is allowed.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 19:744 (June 1993), LR 30:

§905. Application; Fee

A. Each intern shall make application to the board on prescribed forms, accompanied by a fee as established by the board and if found acceptable shall be registered as such and given an identification slip. Registration is for one year only. At the end of this internship period, applicant must appear at the next regular board examination provided the educational requirements have been met. The intern may appeal to the board for an extension of his internship provided, however, that he makes application before the board for such extension and show cause for his extension. Re-application shall be at an additional fee as established by the board. The board may, at its own discretion, extend an internship to any period not to exceed one year.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§907. Affidavits Required

A. When tenure of internship is completed, an affidavit by both the intern and the person under whose direct supervision he served, shall be filed not later than 15 days with the board. Said affidavit shall list the number of bodies embalmed and/or funerals assisted in.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§909. Notification to Licensed Person

A. The secretary of the board, upon notification by the applicant, will inform the licensed person responsible for the supervision and the training of the intern of the rules and regulations concerning the internship and that he will be responsible to the board for the application and enforcement of these rules and regulations. An individual licensee must

be present and in charge of the intern during the normal working hours as required and shall be responsible for the instruction and the performance of the intern during the course of internship.

B. Credit for funeral director and/or embalmer internship shall not be allowed to any person while he is in military service or while enrolled as a full-time student in a mortuary college or university (part-time students are acceptable).

C. Each intern is required to file a complete case report for each individual case handled during the internship which must be signed by the individual licensee who was supervisor of that case and must also file a monthly report providing the board with a summary of the cases worked during that period which shall be signed by the licensee designated as the supervisor of the intern. The report is due on the tenth day of the month and delinquent on the fifteenth day. Delinquent reports may result in the loss of credit for that month. In order for the intern file to be completed the inspector of the board must submit two personally signed inspection reports during internship period.

1. It shall be a requirement and responsibility of the intern to make these reports monthly and to have them in the office of the secretary on the date specified. Failure to perform as specified in this rule will mean automatic loss of that monthly credit. Failure of the licensed supervisor to perform as agreed or to in any way falsify the records of the internship will cause a fine to be levied in accordance with the provisions of R.S. 37:850 for said violation.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:278 (September 1979), amended LR 11:946 (October 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:11 (January 1989), LR 30:

Chapter 11. Funeral Establishments

§1101. Application

A. Application for a funeral establishment license at a new facility shall be made upon the form provided by the board, sworn to by applicant and accompanied by a fee as established by the board at least two weeks prior to the projected opening of the funeral establishment. Said establishment shall meet the requirements as defined in R.S. 37:842. When an existing licensed establishment is sold or transferred, or in excess of 50 percent of the stock in a corporation holding an establishment license is sold or transferred, the purchaser must pay a fee as established by the board for a new license. The seller and the purchaser are required to notify the board with full information as to the sale within 10 days. Failure by either party to provide the board with notice, as herein set out, will bring about the suspension and/or revocation of the license of either or both parties.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended October 1969, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:

§1103. Fixed Place; Extension of Funeral Establishment

A. The funeral establishment license is effective for a fixed place or location located upon a contiguous parcel of land, and for a specific name. Whenever the location or name of the licensed establishment is changed, a new license shall be obtained and a fee in an amount as established by the board must be paid. All changes of name and/or location must be reported to the board's secretary and the application process must be completed prior to making any changes.

B. The board will recognize a fixed business office to maintain records at a location other than the fixed location of the funeral establishment which shall be considered as an extension of the funeral establishment, and the records maintained within this extension shall be subject to the inspection of the board. Application for said extension to the funeral establishment shall be made upon the form provided by the board and shall be accompanied by a fee as established by the board. Any changes in the location of this extension must be reported to the board immediately.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended 1970, amended and promulgated LR 4:227 (June 1978), amended LR 5:278 (September 1979), LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:

§1105. Charge of Funeral Establishment

A. All funeral establishments must have a licensed funeral director designated as the manager of the facility and in charge of the day to day operations of the funeral home. The manager must be available to perform all of the routine functions of the licensed establishment as provided within the provisions of R.S. Title 37, Chapter 10, Section 831 et seq., within normal business hours; and, the manager must personally carry out his responsibilities as defined within Paragraph 23 of Section 831 and/or as provided within the statute.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 5:278 (September 1979), LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1107. Inspection

A. Each funeral establishment shall be subject to inspection and shall comply with the following requirements.

1. Each establishment must have suitable and dignified quarters devoted to such activities incident or related to the care, the preparation, and arrangement for the burial, cremation, or other disposition of dead human bodies from which a funeral may be conducted.

2. It shall be the duty of the board or anyone designated by the board to inspect the establishment wherein licensed embalmers or funeral directors are practicing or propose to practice, to determine if proper and adequate facilities are provided.

B. Each establishment must meet all federal, state, and local requirements and must consist of and be inspected for an adequate facility containing:

1. display area for displaying funeral merchandise which shall consist of but not be limited to a minimum of six adult caskets of a variety of styles and quality;

2. an embalming room properly equipped and meeting all federal, state, and local regulations and shall meet the following requirements:

a. floors of tile, cement, linoleum, or like composition, finished with a glazed surface;

b. walls shall be finished with tile, or other material finished with enamel or other waterproof material;

c. a sanitary embalming table of metal, glass, or porcelain top, with running water draining from the table into a drain connected with a sewer or other proper receptacle;

d. hot and cold running water and a separate sink for disinfecting hands and instruments;

e. a permanently installed backflow preventor for the hydro-aspirator;

f. suitable sanitary plumbing which shall comply with the requirements of the Department of Health and Hospitals and Environmental Quality;

g. only equipment and supplies necessary for the preparation or care of dead human bodies for disposal or transportation are to be kept in the preparation room. At no time shall it be used as a store room;

h. the room shall be properly ventilated and climate controlled and comply with federal, state and local laws or ordinances, and/or regulations. It shall be so designed that no deleterious odors be permitted to enter into any other part of the establishment or adjoining premises;

i. the embalming or preparation room shall be strictly private and no one shall be allowed therein while the body is being embalmed except the licensed embalmers and other authorized persons and officials in the discharge of their duties;

j. there shall not be any direct connection between the preparation or embalming room with the living quarters of a funeral establishment or rooms where food is customarily prepared and served. Its doors shall be closed and locked, unless in an area secure from public access, at all times and all of its operable windows must be screened as a safeguard to the public health;

k. each funeral establishment and each preparation or embalming room shall be maintained in a clean and sanitary condition at all times. All instruments and other appliances used in embalming dead human bodies shall be thoroughly cleansed immediately at the conclusion of each individual case;

1. each funeral establishment must have available in the preparation room or embalming room a register book or log. The name of each body embalmed, place (if other than at establishment), the date and time that the embalming took place, the name and signature of the embalmer and his license number must be noted in said book. This must be available at all times in full view for our inspector;

3. an arrangement office which shall afford privacy to the family while making arrangements;

4. restrooms, separate for men and women;

5. parlors or chapel, to comfortably accommodate at least 30 seated persons;

6. a climate control system sufficient to provide comfort to the public;

7. a private area to shield removal of remains from service vehicle and a covered area when exiting the facility to protect the casketed remains until placed in the hearse;

8. furnishings, equipment, and other facilities that meet the standards of the board; and

9. sufficient signage to be visible from the street.

C.1. All establishments, except as herein below provided, shall have layout, embalming, display, personnel, and facilities as required by this Chapter for funeral establishments.

2. Exceptions

a. The following auxiliary or branch establishments shall be subject to inspection and exempt from the above requirement except for R.S. 1107(B)(4), (5), (6), (8) and (9):

i. any establishment if it is within 40 miles of the main establishment and can be practically served by the licensed personnel of the main establishment;

ii. if said auxiliary or branch establishment exceeds 40 miles and there exists a public need for said facilities. The nonexistence of any funeral establishment which serves the public need shall be presumptive evidence of "public need."

E. Each funeral establishment licensed by the board shall keep a set of books or records showing the name of each body prepared for burial, the name of the licensed embalmer who did the embalming, the dates connected with death and burial, and other necessary information required by law. If and when a "trade embalmer" or outside embalmer is called in or performs embalming, it is required that a record of his services be kept showing his name and time when he was at the funeral establishment.

F. Any licensed funeral establishment in the state of Louisiana is hereby prohibited from sharing or permitting the use of said establishment, or from furnishing equipment for use therein, or from rendering personal service therein, or from, in any manner entering into any arrangement or agreement with any person, for and in the conduct of such business upon such premises, who is not himself maintaining a licensed funeral establishment.

G. No one licensed by this board shall be employed as a funeral director and/or embalmer by an unlicensed funeral establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 4:356 (September 1978), LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:191 (February 1994), LR 20:1380 (December 1994), LR 30:

Chapter 12. Crematories

§1201. Application

A. Application for a crematory license at a new facility shall be made upon the form provided by the board, sworn to by applicant and accompanied by a fee as established by the board and must be submitted to the board at least two weeks prior to the projected opening of the crematory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and 37:873.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1203. Fixed Place

A. The license is effective for a fixed place, and for a specific name. Whenever the location or name of the license crematory is changed, a new license shall be obtained and a fee in an amount as established by the board must be paid. All changes of name and/or location must be reported to the board's secretary and the application process must be completed prior to making any changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and 37:873.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1205. Charge of Crematory

A. All crematories must have a licensed crematory retort operator responsible for the day to day operations of the crematory. He must be available to perform all of the routine functions of the crematory as provided within the provisions of R.S. Title 37, Chapter 10, Section 831 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:873.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1207. Inspection

A. Each crematory shall be subject to inspection and shall comply with the following requirements:

1. each crematory must have suitable and dignified facilities and equipment devoted to the cremation of dead human bodies;

2. it shall be the duty of the board or anyone designated by the board to inspect the crematory to determine if proper and adequate facilities and equipment are provided.

B. Each crematory must consist of and be inspected for an adequate building as defined within the statutes which shall be designated for the short term retention of the human remains; a properly operating retort; a processing and/or pulverization unit to complete the cremation process; and, adequate facilities to hold the human remains and maintain all records as required by R.S. 37:831 et seq.

C. The crematory shall work in concert with the funeral home so that the provisions of R.S. 37:848 and Chapter 26, §103 are met.

D. In addition to the various records required by the statutes, the crematory must maintain a log reflecting the name of each body received, the date and time that the body was received, the date and time the cremation began and was completed. The name and signature of the crematory retort operator must be noted within said log book. This must be available at all times in full view for the board's inspector.

E. The crematory shall also meet the following requirements:

1. all equipment and supplies necessary and incidental to the cremation process shall be kept in the crematory. At no time shall the retort and/or the holding facility or any part thereof be used as a store room;

2. the crematory shall be properly ventilated and comply in respect to ventilation with state and local laws or ordinances and regulations. It shall be so ventilated so that no deleterious odors be permitted to enter into any other part of the crematory or adjoining premises;

3. the crematory shall be maintained in a clean and sanitary condition at all times.

F. No one licensed by this board shall be employed as a crematory retort operator by an unlicensed crematory.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:873.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 13. Prohibited Practices

§1301. Pressure Sales Tactics

A. The use of pressure sales tactics and/or plans, including but not limited to a bait and switch plan, and/or a sales commission plan by a funeral establishment or by anyone in their employ or by anyone acting on their behalf, in the sale of merchandise or services shall be an unethical and/or deceptive practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:388 (December 1979), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§1303. Unlawful Practice

A. It shall be unlawful for a firm, partnership, corporation, an association of individuals, or anyone other than those individuals licensed under Title 37, Chapter 10, Articles 831 et seq., to engage in funeral directing, embalming or cremation as defined within Article 831 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:848.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 8:189 (April 1982), amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 15. Transportation

§1501. Container Required for Transporting

A. In order to comply with the proper handling of a dead human body, a funeral director, when required to transport that body for disposition, shall transport the remains in a container that eliminates direct contact by those not licensed to handle the dead and to offer protection to those who might accidentally come in contact with said body.

B.1. No section of this regulation shall be interpreted to prohibit transportation of dead human bodies without the use of a container as specified in Subsection A hereof, in closed vehicles designed exclusively for the transportation of dead human bodies.

2. When remains are transported by airline or any other common carrier, the remains must be in a closed container as provided in Subsection A herein above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 17. Prepaid Funeral Services or Merchandise **§1701. Reports on Prepaid Funeral Services or Merchandise**

A. The report required by R.S. 37:861 from licensed funeral establishments engaged in the selling of prepaid funeral services or merchandise is necessary only in those instances where funds have actually been paid to or received by a licensed funeral establishment for such services or merchandise. The purpose of requiring such report is to protect purchasers of prepaid funeral services or merchandise by insuring that funds, paid by a purchaser to a licensed funeral establishment, are utilized solely for his exclusive use and benefit. Prearrangements of funerals by licensed funeral establishments, which are unfunded, are not within the scope of R.S. 37:861, and, accordingly, no report is required in these instances.

B. The report shall be in such form and contain such information as is prescribed by R.S. 37:861(A)(1) and shall be filed by each licensed funeral establishment engaged in the selling of prepaid funeral services or merchandise no later than December 31 of each year, and shall cover the period from October 1 of the previous year to and including September 30 of the year in which the report is due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:861.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 8:188 (April 1982), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 19. Survivor's Clause

§1901. Survivor's Clause

A. A survivor of the proprietor or the widow of the principal share holder of a funeral establishment can be issued a special work permit in a managerial position. Permit must be applied for within 60 days after death of spouse. Said permit is to be issued for a period not to exceed 12 months following approval of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 20. Fees

§2001. Fees

A. The board shall require payment of fees hereunder as follows:

1. a fee of \$250 from each person applying for a funeral director license;
2. a fee of \$250 from each person applying for a combination funeral director and embalmer license;
3. a fee of \$250 from each person applying for a crematory retort operator license;
4. a fee of \$80 for the annual renewal of each of the licenses listed in Paragraphs 1, 2, and 3 of this Section;
5. a fee of \$1,000 for each funeral establishment applying for a license to operate within this state;
6. a fee of \$1,000 for each crematory applying for a license to operate within this state;

7. a fee of \$700 for the annual renewal of each of the licenses listed in Paragraphs 5 and 6 of this Section;

8. a fee of \$500 for each inspection or re-inspection of a funeral establishment applying for an initial license to operate within this state or as a result of a location, or an ownership change;

9. a fee of \$500 for each inspection or re-inspection of a crematory applying for a license to operate within this state or as a result of a location, or an ownership change;

10. a fee of \$100 from each person applying for an internship;

11. a fee of \$100 from each person applying for a duplicate certificate;

12. a fee of \$100 from each person applying for a work permit within this state;

13. a fee of \$100 from each sponsor/presenter applying for approval of a continuing education program; and

14. a fee for a business office of \$400.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:845.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 21. Rulemaking Process

§2101. Procedure to Follow

A. The board must follow the procedure outlined in the Administrative Procedure Act to adopt, amend or repeal any of the existing rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 11:688 (July 1985), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§2103. Amending Sections

A. These rules and regulations may be added to, changed, altered or amended by a favorable vote of five members of the board, when said additions, changes, alterations or amendments have been presented by a member of the board, at a regular or called meeting of same. They shall be received and all members notified 30 days in advance of the proposed additions, changes, alterations or amendments before final action can be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§2105. Repeal of Rules

A. All rules and regulations previously adopted by this board are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 11:688 (July 1985) repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Chapter 23. Injunction Proceedings; Penalty

§2301. Injunction Proceedings

A. The board may bring legal proceedings to enjoin a person or establishment violating the rules and regulations of this board from practicing the science of embalming or

conducting the business of funeral directing or operating a funeral establishment, as may be the case, until such person complies with the requirements of these rules and regulations. The injunction, if granted, shall not be suspended by bond or appeal and the person or establishment enjoined shall be cast for attorney fees and court costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:850.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

§2303. Penalty

A. Whoever violates the provisions of these rules and regulations shall be fined not less than \$500 nor more than \$2,500 for each offense, plus costs of the hearing and the attorney for the board.

B. If a firm or association violates the provisions of these rules and regulations, all members of the firm or association who knowingly violate said provisions shall be subject to the penalty. If a corporation violates said provisions, the members of the corporation who knowingly violate said provisions shall be subject to the penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:850.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 5:280 (September 1979), amended LR 11:688 (July 1985), LR 12:677 (October 1986), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:

Interested persons may submit written comments on these proposed Rule changes to Dawn Scardino, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, 3500 N. Causeway Blvd., Suite 1232, Metairie, LA 70011. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Dawn Scardino
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Embalmers and Funeral Directors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The board will spend approximately \$11,000 in FY 05 in printing costs to implement these rule change/additions. This will cover the cost of publications in the *Louisiana Register*, and the printing and mailing of revised books to all funeral establishments, crematories, and licensees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The fee increases approved by the legislature are expected to increase the board's self-generated revenue by approximately \$184,000 in FY 05 and subsequent fiscal years. Initial licensee fee would increase for \$150 to \$250; embalmer/funeral director and funeral director annual renewal fee would increase from

\$50 to \$80; initial license fee for a funeral home or crematory to operate would increase from \$750 to \$1,000; annual renewal fee for a crematory or funeral establishment would increase from \$400 to \$700; internship registration fee or work permit fee would increase from \$60 to \$100; and, a duplicate certificate fee would increase from \$40 to \$100. There would also be an inspection fee of \$500 for any funeral establishment or crematory which has to be inspected for the issuance of a new license.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase fees paid by interns, licensees, funeral establishments and crematories (approximately 1,677 licensees in FY 05 and subsequent fiscal years).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

Dawn Scardino
Executive Director
0409#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Physician Assistants; Licensing and Practice
(LAC 46:XLV.1501-1519 and 4501-4513)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270(B) and the Physician Assistants Practice Act, R.S. 37:1360.23(B) and (F), R.S. 37:1360.31(B)(8), and in accordance with the applicable provisions of the Administrative Procedure Act, the board intends to amend LAC Title 46:XLV, Subpart 2, Chapter 15, §§1501-1529 and Subpart 3, Chapter 45, §§4501-4513, to conform such rules to the statutory law providing for the licensing and regulation of physician assistants who are authorized to prescribe medication and medical devices to the extent delegated by a supervising physician, as amended by Acts 2004, Number 10, R.S. 37:1360.31(B)(8).

The proposed Rule has no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Profession

Subpart 2. Licensing and Certification

Chapter 15. Physician Assistants

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

* * *

Applicant A person on whose behalf the board has received an application for:

- a. licensure as a physician assistant;
- b. physician assistant registration for prescriptive authority; or

c. registration by a physician to supervise a physician assistant and/or to delegate prescriptive authority to a physician assistant.

Approved Application Call of the information, representations, terms, restrictions, and documents contained in or submitted with an application upon which the board has issued: a physician assistant license; a physician assistant registration for prescriptive authority; or a supervising physician registration of delegation of prescriptive authority to a physician assistant.

* * *

Bona Fide Medication Sample A medication, other than a controlled substance, packaged by the original manufacturer thereof in such quantity as does not exceed a usual and reasonable therapeutic dosage and provided at no cost to a physician or physician assistant for administration or dispensation at no cost to the patient.

Controlled Substance Any substance designated or that may hereafter be designated as a Scheduled III, IV, or V controlled substance in R.S. 40:964.

Drug A controlled substance or a legend drug.

* * *

Legend Drug Any drug or drug product bearing on the label of the manufacturer or distributor as required by the Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without a prescription." Legend drugs do not include controlled substances.

* * *

Medication Except in these rules where its use may indicate otherwise, is synonymous with *drug*, as defined herein.

Medical Device Any instrument, apparatus, implement, contrivance, implant, or similar or related article, which is required under federal law to bear the label "Caution: Federal or State law requires dispensing by or on the order of a physician" and/or "Rx Only," or any other designation required under federal law. For purposes of this Chapter a *medical device* shall not include medical lasers, microwave, pulse light, radio frequency or any other such instrument, apparatus, implement or similar equipment used for therapeutic or cosmetic purposes.

* * *

Prescribe or Prescription A request or order transmitted in writing, orally, electronically or by other means of telecommunication, for a drug or medical device issued in good faith, in the usual course of professional practice for a legitimate medical purpose, by a licensed physician, or a physician assistant registered to prescribe medication and/or medical devices under this Chapter, for the purpose of correcting a physical, mental, or bodily ailment.

Prescriptive Authority The authority of a physician assistant duly registered and approved by the board to prescribe legend drugs and/or controlled substances and/or medical devices, to the extent delegated by a supervising physician, in accordance with the registration on file with the board and in compliance with the board's rules, §§1501-1529 and §§4501-4513.

Primary Practice Site The practice location at which a supervising physician or physician assistant spends the majority of time.

Protocol or Clinical Practice Guidelines or clinical practice guidelines or protocols a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. If prescriptive authority has been delegated to the physician assistant by the supervising physician the clinical practice guidelines or protocols shall contain each of the components specified by §1521.A.5. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. When a physician assistant has been delegated prescriptive authority, the supervising physician and physician assistant shall maintain a written copy of such clinical practice guidelines and protocols in each office location that the supervising physician and physician assistant practices. Such written clinical practice guidelines and protocols shall be available for inspection by authorized representatives of the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999), LR 30:

§1505. Necessity for License; Registration of Prescriptive Authority

A.1. No person may act as or undertake to perform the functions of a physician assistant unless he has in his personal possession a current physician assistant license issued to him under this Chapter.

2. A physician assistant currently licensed by the board shall not prescribe medication or medical devices unless his registration for prescriptive authority has been approved by the board in accordance with this Chapter.

B. Any person who acts or undertakes to perform the functions of a physician assistant without a current physician assistant license issued under this Chapter, or prescribes medication or medical devices without or beyond registration of such authority approved by the board, shall be deemed to be engaging in the practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to:

1. - 2. ...

3. any physician assistant student enrolled in a physician assistant educational program accredited by the Advisory Committee on Allied Health Education and Accreditation or its successor; provided, however, that a physician assistant student shall not be eligible for registration of prescriptive authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999), LR 30:

§1513. Issuance of License; Registration of Prescriptive Authority; Working Permit; Updating Information

A. 1. If the qualifications, requirements and procedures of §§1507 and 1509 are met to the satisfaction of the board, the board shall license the applicant as a physician assistant.

2. If the qualifications, requirements and procedures of §§1521 and 1525 are met to the satisfaction of the board, the board shall register the physician assistant's prescriptive authority to the extent delegated by the supervising physician.

B. - D. ...

E. A working permit shall not qualify a physician assistant for registration of prescriptive authority.

F. A physician assistant is responsible for updating the board within 15 days should any of the information required and submitted pursuant to §§1507, 1509, 1521, or 1525 change after the physician assistant has been licensed as a physician assistant or his registration of prescriptive authority approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999), LR 30:

§1514. Issuance of Approval as Supervising Physician; Registration of Delegation of Prescriptive Authority; Updating/Verification of Information

A. 1. If all the qualifications, requirements and procedures of §§1508 and 1510 are met to the satisfaction of the board, the board shall approve and register a physician as a supervising physician.

2. If all the qualifications, requirements and procedures of §§1523 and 1527 are met to the satisfaction of the board, the board shall approve and register a supervising physician's delegation of prescriptive authority to a physician assistant.

B. Although a physician must notify the board each time the physician intends to undertake the supervision of a physician assistant, registration as a supervising physician with the board is only required once. Notification of supervision of a new physician assistant by a registered supervising physician shall be deemed given to the board upon the physician assistant's filing with the board a notice of intent to practice in accordance with §1517 of this Chapter. The board shall maintain a list of physicians who are registered to supervise physician assistants and those who have registered delegation of prescriptive authority to a physician assistant.

C. Each registered physician is responsible for updating the board within 15 days should any of the information required and submitted in accordance with §§1508, 1510, 1523, and 1527 change after the physician has become registered as a supervising physician or registered his delegation of prescriptive authority to a physician assistant.

D. Registration of a supervising physician's delegation of prescriptive authority shall be filed with and approved by the board for each physician assistant that is to receive such

authority. A supervising physician shall annually verify, on a form supplied by the board, the accuracy of such registration information on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:203 (March 1996), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:30 (January 1999), LR 30:

§1519. Transfer of Certification

A. ...

B. Application for transfer of certification to a new supervising physician shall:

1. ...

2. include:

a. the information and documentation prescribed by §1509 hereof with respect to the proposed new supervising physician, along with an application for registration of prescriptive authority if such is to be delegated, in accordance with §§1525 and 1527; and

b. ...

C. - F. ...

G. A provisional transfer of certification shall not be deemed to qualify a physician assistant eligible for registration of prescriptive authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended LR 17:1104 (November 1991), LR 30:

§1521. Qualifications for Physician Assistant

Registration of Prescriptive Authority

A. Legend Drugs/Medical Devices. To be eligible for registration of prescriptive authority for legend drugs and medical devices a physician assistant shall:

1. satisfy the licensure requirements of §1507 of this Chapter;

2. possess a current, unrestricted license to practice as a physician assistant duly issued by the board and not be the subject of a current investigation or pending disciplinary proceeding by the board;

3. have received authority to prescribe legend drugs and/or medical devices to the extent delegated by a supervising physician;

4. have completed:

a. a minimum of one year of clinical rotations during training and one year of practice under a supervising physician; or

b. a minimum of two years of practice under a supervising physician;

5. practice under supervision as specified in clinical practice guidelines or protocols that shall, at a minimum, include:

a. the methods to be employed by the supervising physician to insure supervision of the physician assistant's prescriptive authority;

b. the nature, types and classifications of medication and/or medical devices a physician assistant is authorized to utilize by the supervising physician;

c. a plan to accommodate immediate consultation by telephone or direct telecommunication with the supervising physician, or in his absence an approved locum

tenens physician, to address medical emergencies, complications and other such matters;

d. a predetermined plan for emergency services, after-hours, weekend, and vacation coverage;

e. a predetermined plan for patient referrals to other physicians, emergency rooms and admission to hospitals at which the supervising physician holds privileges. Such plan shall include a statement that the physician assistant shall not seek privileges at any institution unless the supervising physician holds privileges at such institution;

f. an acknowledgment of the mutual obligations and responsibilities of the supervising physician and physician assistant to comply with all requirements of §4511 of these rules including, but not limited to, the review and countersigning of the physician assistant's written entry in the patient record of prescriptions for medication or medical devices; and

g. confirmation that the physician assistant shall not prescribe medication or medical devices if the supervising physician, or in his absence an approved locum tenens physician, is neither physically present nor available by telephone or other telecommunication device.

B. Controlled Substances. To be eligible for registration of prescriptive authority for controlled substances a physician assistant shall:

1. satisfy the requirements of §1521.A;

2. possess a current, unrestricted permit or license to prescribe controlled substances in Louisiana duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Hospitals, State of Louisiana or its successor, and be currently registered to prescribe controlled substances without restriction as to the schedules delegated by the supervising physician with the Drug Enforcement Administration, United States Department of Justice (DEA). A physician assistant authorized to prescribe controlled substances shall provide the board photocopies of his Louisiana permit and federal registration prior to prescribing controlled substances; and

3. not be deemed ineligible for registration for any of the causes set forth in §1521.C.

C. A physician assistant shall be deemed ineligible for registration of authority to prescribe controlled substances who:

1. has, within the five years preceding application for registration, been convicted, whether upon verdict, judgment or plea of guilty or nolo contendere of any crime constituting a felony under the laws of the United States or of any state or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

2. has, within the five years preceding application for registration, been convicted, whether upon verdict, judgment or plea of guilty or nolo contendere of any crime, an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

3. has, within the five years preceding application for registration, abused or excessively used any medication, alcohol or other substance which can produce physiological

or psychological dependence or tolerance or which acts as a central nervous system stimulant or depressant;

4. has had suspended, revoked or restricted, his narcotics controlled substance permit, license, certificate or registration (state or federal), or who has voluntarily surrendered to such state or federal authority while under investigation in lieu of the institution of disciplinary charges or action against such authority;

5. has had his professional license suspended, revoked or placed on probation or restriction in any manner by the board or by any licensing authority, or who has in the presence of an investigation agreed not to seek re-licensure, voluntarily surrendered or entered into an agreement with the board or with any licensing authority in lieu of the institution of disciplinary charges or action against such license;

6. has, within the five years preceding the application for registration, been denied, had suspended, revoked, restricted or relinquished staff or clinical privileges at a hospital or other health care institution following a hearing or an opportunity for hearing, as a result of professional competency or conduct or who is currently the subject of an unresolved investigation by a hospital medical staff for professional competency or conduct; or

7. has failed his most recent attempt at passage of the certification or recertification examination administered by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors and has yet to sit for or successfully pass such examination on a subsequent attempt.

D. The board may deny registration of prescriptive authority to an otherwise eligible physician assistant for any of the causes enumerated by R.S. 37:1360.33, or any other violation of the provisions of the Louisiana Physician Assistant Practice Act, R.S. 37:1361.21, et. seq. or its rules applicable to physician assistants.

E. The burden of satisfying the board as to the eligibility of the applicant for approval of registration of prescriptive authority shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1523. Qualifications of Supervising Physician for Registration of Delegation of Prescriptive Authority

A. Legend Drugs and Medical Devices. To be eligible for approval of registration to delegate authority to prescribe legend drugs and/or medical devices to a physician assistant a supervising physician shall:

1. satisfy the requirements of §1508;
2. not currently be enrolled in a medical residency or other postgraduate medical training program;
3. be actively engaged in clinical practice and the provision of patient care and provide supervision as defined in §1503.A; and
4. have prepared and signed clinical practice guidelines or protocols that comply with §1521.A.5 of these rules.

B. Controlled Substances. To be eligible for approval of registration to delegate authority to prescribe controlled

substances to a physician assistant a supervising physician shall:

1. satisfy the requirements of §1523.A;
2. possess a current, unrestricted permit or license to prescribe controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Hospitals, State of Louisiana, and be currently registered to prescribe controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice (DEA);
3. not be employed by or serve as an independent contractor to a physician assistant or be a party to any other or similar employment, contractual or financial relationship. The board may, in its discretion, grant an exception to this requirement on a case-by-case basis where it has been shown to its satisfaction that such relationship is structured so as to prohibit interference or intrusion into the physician's relationship with patients, his exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law and the board's rules on a supervising physician; and
4. not be deemed ineligible for registration to delegate authority to prescribe controlled substances for any of the causes set forth in §1523.C of this Chapter.

C. A physician shall be deemed ineligible for registration to delegate authority to prescribe controlled substances to a physician assistant:

1. for any of the causes set forth in §1521.C.1-6; and
2. any of the causes enumerated by R.S. 37:1285A, or violation of any other provision of the Louisiana Medical Practice Act, R.S. 37:1261, et. seq. or the board's rules.

D. The burden of satisfying the board as to the eligibility of a physician for registration to delegate prescriptive authority to a physician assistant shall be upon the proposed supervising physician. A physician shall not be deemed to possess such qualifications unless the physician demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1525. Physician Assistant Application for Registration of Prescriptive Authority; Procedure

A. Physician assistant application for registration of prescriptive authority shall be made upon forms supplied by the board and shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications for registration of prescriptive authority set forth in §1521 of this Chapter;
2. confirmation that clinical practice guidelines or protocols conforming to §1521.A.5 have been signed by the supervising physician and physician assistant;
3. such other information and documentation as the board may require; and
4. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the application.

B. A personal interview of a physician assistant applicant for registration of prescriptive authority by a member of the board or its designee may be required as a condition of

registration for any of the reasons specified in §1509.B or for other good cause as determined by the board.

C. The board may reject or refuse to consider any application for registration of prescriptive authority that is not complete in every detail required by the board. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1527. Supervising Physician Application for Registration of Delegation of Prescriptive Authority; Procedure

A. Physician application for approval and registration of delegation of prescriptive authority to a physician assistant shall be made upon forms supplied by the board and shall include:

1. proof documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §1523 and this Chapter;

2. confirmation that the physician has delegated prescriptive authority to the physician assistant and the nature, extent, and limits thereof;

3. a description of the manner and circumstances in which the physician assistant has been authorized to utilize prescriptive authority and the geographical location(s) where such activities will be carried out;

4. confirmation that clinical practice guidelines or protocols conforming to §1521.A.5 have been signed by the supervising physician and physician assistant;

5. such other information and documentation as the board may require; and

6. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the application.

B. A personal interview of a physician applicant for registration of delegation of prescriptive authority by a member of the board or its designee may be required as a condition of registration for any of the reasons specified in §1510.B or for other good cause as determined by the board.

C. The board may reject or refuse to consider any application for registration of delegation of prescriptive authority that is not complete in every detail required by the board. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1529. Expiration of Registration of Prescriptive Authority; Renewal; Continuing Education

A. Registration of prescriptive authority shall not be effective until the physician assistant receives notification of approval from the board. Such registration and the physician assistant's prescriptive authority shall terminate and become void, null and to no effect upon the earlier of:

1. termination of the relationship between the physician assistant and supervising physician;

2. notification to the board that the supervising physician has withdrawn, cancelled or otherwise modified the physician assistant's prescriptive authority;

3. a finding by the board of any of the causes that would render a physician assistant ineligible for registration of prescriptive authority set forth in §1521.C or a supervising physician ineligible to delegate such authority pursuant to §1523.C;

4. a finding by the board that the physician assistant has violated the Louisiana Physician Assistant Practice Act, R.S. 37:1360.21, et. seq. or the board's rules;

5. a finding by the board that the supervising physician has violated the Louisiana Medical Practice Act, R.S. 37:1261, et. seq. or the board's rules; or

6. expiration of a physician assistant's or supervising physician's license or registration of prescriptive authority for failure to timely renew/verify such license or registration.

B. A physician assistant's prescriptive authority is personal to the individual physician assistant and supervising physician who delegated such authority and shall not be transferred by notice of intent or otherwise, utilized by anyone other than the physician assistant to whom delegated, or placed on inactive status.

C. Registration of prescriptive authority shall be renewed annually by a physician assistant by submitting to the board an application for renewal upon forms supplied by the board, together with the supervising physician's verification of the accuracy of registration information on file with the board, and confirmation of compliance with the continuing education requirements prescribed by §1529.D.

D. Continuing Education. Every physician assistant seeking renewal of registration of prescriptive authority shall:

1. obtain 100 hours of continuing medical education biannually, or such greater number of hours as may be required by the NCCPA, in courses qualifying for NCCPA certification or recertification; and

2. pass the pharmacology/pharmacotherapeutic and all other segments of the NCCPA recertification examination every six years, or at such other intervals as the NCCPA may require, to maintain current NCCPA certification.

E. A physician assistant shall maintain a record of certificate of attendance for at least four years from the date of completion of the continuing education activity. Such record shall be made available to the board within 30 days of its request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subpart 3. Practice

Chapter 45. Physician Assistants

§4501. Supervision by Supervising Group of Physicians

A. A physician assistant may be supervised by a supervising group of physicians provided that, a member, partner or employee of the supervising group is designated as the supervising physician, and such supervising physician meets and satisfies all of the qualifications, procedures and other requirements of this Chapter to the same extent as if the physician assistant were supervised individually by the supervising physician. A physician assistant's authority to prescribe medication and/or medical devices under supervision of a supervising group of physicians shall be

limited to the extent of authority delegated to the physician assistant by the supervising physician.

B. ...

C. When a physician assistant is supervised by a supervising group of physicians, the supervising physician may designate any other member, partner or employee of the supervising group as locum tenens physician, provided that such designee meets the qualifications of LAC 46:XLV.1508 and 1510 and the designation otherwise complies with said Sections. When a physician assistant is registered with the board to prescribe medication or medical devices a locum tenens physician shall also meet the qualifications prescribed by §1523 and shall be registered with the board pursuant to §1527. Any physician serving as a locum tenens physician must be identified in the physician assistant's notice of intent to practice as provided in §1517.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:31 (January 1999), LR 30:

§4505. Services Performed by Physician Assistants

A. ...

B. In accordance with a written clinical practice guideline or protocol medical services rendered by a physician assistant may include: screening patients to determine need for medical attention; eliciting patient histories; reviewing patient records to determine health status; performing physical examinations; recording pertinent patient data; performing developmental screening examinations on children; making preliminary decisions regarding data gathering and appropriate management and treatment of patients being seen for initial evaluation of a problem or follow-up evaluation of a previously diagnosed and stabilized condition; making appropriate referrals; preparing patient summaries; requesting initial laboratory studies; collecting specimens for blood, urine and stool analyses; performing urine analyses, blood counts and other laboratory procedures; identifying normal and abnormal findings on history, physical examinations and laboratory studies; initiating appropriate evaluation and emergency management for emergency situations such as cardiac arrest, respiratory distress, burns and hemorrhage; performing clinical procedures such as venipuncture, intradermal testing, electrocardiography, care and suturing of wounds and lacerations, casting and splinting, control of external hemorrhage, application of dressings and bandages, administration of medications, intravenous fluids, and transfusion of blood or blood components, removal of superficial foreign bodies, cardio-pulmonary resuscitation, audiometry screening, visual screening, aseptic and isolation techniques; providing counseling and instruction regarding common patient problems; monitoring the effectiveness of therapeutic intervention; assisting in surgery; signing for receipt of medical supplies or devices that are delivered to the supervising physician or supervising physician group; and, to the extent delegated by the supervising physician, prescribing legend drugs and controlled substances listed in R.S. 40:964 as Schedule III, IV and V substances and prescribing medical devices. This list is illustrative only, and

does not constitute the limits or parameters of the physician assistant's practice.

C. - D. ...

E. A physician assistant shall not:

1. practice without supervision, as defined by §1503, except in life-threatening emergencies;

2. complete and issue prescription blanks previously signed by a physician;

3. except to the extent delegated by a supervising physician, as evidenced by approval of registration on file with the board in accordance with §1507-1527 of the board's rules:

a. issue prescriptions for any medication; or

b. order for administration or administer any medication to any patient except pursuant to the specific order or direction of his or her supervising physician;

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:32 (January 1999), LR 30:

§4506. Services Performed by Physician Assistants

Registered to Prescribe Medication or Medical Devices; Prescription Forms; Prohibitions

A.1. A physician assistant who is registered with the board pursuant to §§1521 and 1525 of these rules to prescribe medication and/or medical devices may, to the extent of such registration and the authority delegated by such supervising physician:

a. issue prescriptions for medication or medical devices to a patient of the supervising physician;

b. transmit orally, electronically, or in writing on a patient's record a prescription or order to an individual who may lawfully furnish such medication or medical device; and

c. request, receive, sign for and deliver to a patient a bona fide medication sample.

2. The medical record of any patient for whom the physician assistant has prescribed medication or a medical device, or delivered a bona fide medication sample, shall be properly documented, reviewed and countersigned in accordance with §4511.A.4.

B. All prescriptions issued by a physician assistant shall include:

1. the preprinted name, address and telephone number of the physician assistant;

2. the patient's name and the date the prescription is written;

3. whether generic substitution is authorized;

4. the number of refills, if any; and

5. for a controlled substance, a space in which the physician assistant shall legibly print his DEA number.

C. A physician assistant who has been delegated prescriptive authority shall not:

1. utilize prescriptive authority without supervision, as defined by §1503, or at any location other than specified in the supervising physician's registration of delegation of prescriptive authority filed with the board, except in life-threatening emergencies;

2. prescribe medication or medical devices:

a. except to the extent delegated by a supervising physician, as evidenced by approval of registration on file with the board in accordance with §§1507-1527 of these rules;

b. beyond the physician assistant's education, training and experience;

c. outside of his specialty or that of the supervising physician;

d. in the absence of clinical practice guidelines or protocols specified by §1521.A.5;

e. except in compliance with all applicable state and federal laws and regulations;

f. when the supervising physician, or in his absence an approved locum tenens physician, and physician assistant do not have the capability to be in contact with each other by telephone or other telecommunication.

3. treat and/or utilize controlled substances in connection with the treatment of:

a. non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;

b. obesity, as set forth in §§6901-6913 of the board's rules;

c. one's self, spouse, child or any immediate family member except in a life-threatening emergency;

4. sell or dispense medication, as set forth in §§6501-6561 of the board's rules;

5. issue a prescription or order for any Schedule I or II controlled substance contained or hereinafter included in R.S. 40:964; or

6. dispense or deliver any controlled substance sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§4511. Mutual Obligations and Responsibilities

A. The physician assistant and supervising physician shall:

1.a. - b. ...

c. any other change in the employment, functions, activities, services or the nature or extent of delegation of prescriptive authority of the physician assistant or the manner or location of their performance;

2. - 3. ...

4. insure that, with respect to each direct patient encounter, all activities, functions, services, treatment measures, medical devices or medication prescribed or delivered to the patient by the physician assistant are properly documented in written form in the patient's record by the physician assistant and that each such entry is countersigned by the supervising physician within 24 hours with respect to inpatients in an acute care setting and patients in a hospital emergency department; within 48 hours with respect to patients of nursing homes and other sub-acute settings and within 72 hours in an office, clinic and all other practice settings;

5. insure that in those instances where a physician assistant with prescriptive authority has a primary practice site that is different from that of the supervising physician, that the supervising physician:

a. visits the physician assistant's primary practice site at least weekly during regular office hours and provides consultation to the physician assistant on any issues,

complications or other matters relating to the physician assistant's prescriptions for medication or medical devices;

b. personally sees any patient requiring physician follow-up; and

c. verifies that the prescriptive authority delegated to the physician assistant is being utilized in accordance with the clinical practice guidelines or protocols that are in place.

B.1. - 2. ...

3. Clinical practice guidelines or protocols and any written practice agreement shall be annually reviewed, updated as appropriate, and signed by the physician assistant and supervising physician.

C. The physician assistant and supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter, and to immediately report any violation or noncompliance thereof to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999), LR 30:

§4513. Causes for Nonissuance, Suspension, Revocation or Restrictions; Fines, Reinstatement

A. The board may refuse to issue, or may suspend, revoke or impose probationary or other restrictions on, any license issued under this Chapter, or issue a private or public reprimand, for the following causes:

1. - 15. ...

16. violation of any provision of this Chapter, or of rules or regulations of the board or statute pertaining to physician assistants;

17. conviction or entry of a plea of guilty or nolo contendere to any crime an element of which is the manufacture, production, distribution, sale or exchange of any controlled substance;

18. prescribing legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner; or

19. utilizing prescriptive authority in violation of any of the provisions of §§1501-1529 or 4501-4513 of the board's rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1107 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999), LR 30:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments until 4 p.m., October 11, 2004, to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Assistants;
Licensing and Practice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Other than notice and rule publication costs estimated at a combined total of \$2,448, which will be absorbed within the Board's budget during FY 05, it is not anticipated that the proposed rule amendments will result in any additional costs or savings to the Board or any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Aside from an additional form supplied by the Board for completion and execution by the physician assistant and supervising physician for initial registration and annual renewal/verification, it is not anticipated that the proposed rule amendments will have any material effect on costs, paperwork or workload of the 334 physician assistants currently licensed to practice in this state or their supervising physicians. In implementing the statutory amendments permitting physician assistants to prescribe medication and medical devices to the extent delegated by a supervising physician the rule amendments may, to the extent that is not quantifiable, serve to increase receipts and/or income of physician assistants.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector. In implementing the statutory amendments permitting physician assistants to prescribe medication and medical devices to the extent delegated by the supervising physician the rule amendments may, to an extent that is not quantifiable, serve to increase competition in the market for employment of physician assistants.

John B. Bobear, M.D.
Executive Director
0409#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

Criminal History Record Information; Registration and
Licensure (LAC 46:XLVII.3330 and 3341)

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 criminal history record information and fees for registration and licensure. The proposed amendments of the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses**

Subpart 2. Registered Nurses

Chapter 33. General

**Subchapter C. Registration and Registered Nurse
Licensure**

§3330. Criminal History Record Information

A. - C.2. ...

D. The board shall require from students seeking admission to clinical nursing courses, a completed Application for Approval to Enroll in A Clinical Nursing Course and a \$20 enrollment application fee prior to the student's enrollment in a clinical nursing course.

E. The applicant or licensee must review and sign the Authorization to Disclose Criminal History Record Information.

F. The applicant or licensee must contact the state or local police/sheriff department and submit two fingerprint cards to be completed. The law enforcement agency may specify a designated location and fee for the completion of the fingerprint cards.

G. The two completed fingerprint cards must be returned to the board office by the applicant or licensee with the required fee. The cards and fee will be forwarded to the Louisiana Department of Public Safety. The second card will be forwarded to the Federal Bureau of Investigations by the Louisiana Department of Public Safety.

H. The submission of the fingerprint cards and the signed Authorization to Disclose Criminal History Record Information must be received prior to the license being processed or during the semester that the first clinical nursing course has begun.

I. The processing of the license or the entry into clinical nursing courses may not be delayed awaiting these reports; however, future action may result if the criminal history record information so indicates. If the criminal history record reveals criminal activity which constitutes grounds for denial under R.S. 37.921. or LAC 46:XLVII.3331, then the license issued shall be recalled or the progression in clinical nursing courses may be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:920.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 26:1614 (August 2000), amended LR 30:

§3341. Fees for Registration and Licensure

A. Notwithstanding any provisions of this Chapter, the board shall collect in advance fees for licensure and administrative services as follows:

1. Licensure

a.	Examination Application	\$100
b.	Endorsement Application	\$100
c.	Enrollment Application	\$ 20
d.	RN Renewal Fee	\$ 45
e.	RN Late Renewal Fee	\$ 90
f.	Retired License Fee (one time fee)	\$ 45
g.	RN Reinstatement from Inactive or Retired Status	\$ 45
g.	RN Reinstatement from Delinquent Status	\$ 90

i.	Initial APRN Licensure Application	\$100
j.	APRN Endorsement Application	\$100
k.	APRN Renewal Fee	\$ 50
l.	APRN Late Renewal Fee	\$100
m.	APRN Reinstatement from Inactive Status	\$ 50
n.	APRN Reinstatement from Delinquent Status	\$100
o.	APRN Prescriptive Authority Application	\$100
p.	APRN Prescriptive Authority Site Change	\$ 25
q.	Reinstatement of Prescriptive Authority Privileges	\$ 50
r.	Verification of Licensure	\$ 25
s.	Duplicate Application	\$ 10
t.	Duplicate License	\$ 10

A.2. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 8:417 (August 1982), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996), repromulgated LR 24:1293 (July 1998), amended LR 26:84 (January 2000), LR 30:

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.

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 601, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on October 10, 2004.

Barbara L. Morvant
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Criminal History Record Information; Registration and Licensure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the proposed rule, which requires the Board to perform background checks for registered nursing students entering clinical nursing courses, will increase the workload of the Board in order to process an estimated 2,000 applications per year. Therefore, the increase workload will require two additional employees along with a first year equipment cost \$9,500. The estimated increase in total operating cost to the Board as a result of the proposed rule is approximately \$74,166 in FY 05, \$69,414 in FY 06, and \$74,525 in FY 07. Implementation costs include \$136 for publication in the *Louisiana Register* in FY 04.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues will increase due to an additional fee being assessed for each student applicant entering clinical nursing courses. The additional revenues will be generated from assessing a fee of \$20.00 for each student applying for clinical nursing courses along with an increase in the examination fee from \$80.00 to \$100.00 per applicant. The number of students being admitted is steadily increasing with a five-year average of 2,083 students. Likewise, the number of candidates

graduating and applying for licensure by examination is steadily increasing with a five-year average of 1,532. The funds to be generated are estimated to be \$72,324 in FY 05, \$75,524 in FY 06, and \$75,824 in FY 07. These additional fees will cover the additional expenditures due to the implementation of background checks for students entering clinical nursing courses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of the proposed rule will require new nursing students to pay \$20 for an application to enroll into clinical nursing courses and applicants for licensure by examination to pay an additional \$20 for examination applications (increase from \$80 to \$100).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant
Executive Director
0409#033

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 Program
Prosthetics and Orthotics
(LAC 50:XVII.1301-1305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XVII.1301-1303 and amend 1305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule that established the reimbursement methodology for artificial eyes (*Louisiana Register, Volume 27, Number 1*). The bureau subsequently promulgated an Emergency Rule that adopted criteria for the authorization of artificial eyes, scleral shell, and related services and amended the reimbursement methodology (*Louisiana Register, Volume 30, Number 8*). This proposed Rule is being promulgated to continue the provisions contained in the August 20, 2004 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 will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by facilitating access to artificial eyes and related services.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the authorization of artificial eyes, scleral shell and related services.

Title 50
PUBLIC HEALTH MEDICAL ASSISTANCE
Part XVII. Durable Medical Equipment
Subpart 1. Prosthetics
Chapter 13. Prosthetics and Orthotics
Subchapter A. Artificial Eyes, Scleral Shell, and Related Services

§1301. Introduction

A. Definitions

Artificial Eye or Ocular Prosthesis A replacement for a missing or damaged, unsightly eye.

Full Ocular Prosthesis Used for individuals who have the globe removed allowing for the fitting of a regular artificial eye.

Related Services Include polishing or resurfacing of ocular prosthetics, enlargements or reductions of ocular prosthetics, and fabrication or fitting of ocular conformer.

Scleral Shell (or Shield)

a. a custom-made, thin ocular prosthesis fitted directly over a blind and shrunken globe. It includes the iris (the colored part of the eye) and the sclera (the white part of the eye);

b. a term utilized to describe different types of hard scleral contact lenses. A shell fits over the entire exposed surface of the eye as opposed to a corneal contact lens which covers only the central nonwhite area encompassing the pupil and iris.

B. These procedures require prior authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§1303. Medical Necessity

A. An artificial eye and related services shall be approved if an eyeball is removed and replacement and repair and/or upkeep of an artificial eye are necessary to maintain the contour of the face.

B. A scleral shell may be authorized when the medical criteria as stated in this Subchapter A are met. A scleral shell may, among other things, obviate the need for surgical enucleation and prosthetic implant and act to support the surrounding orbital tissue of an eye that has been rendered sightless and shrunken by inflammatory disease. In such a case, the device serves essentially as an artificial eye. In this situation, authorization of payment may be made for a scleral shell. Scleral shells are occasionally used in combination with artificial tears in the treatment of "dry eye" of diverse etiology. Tears ordinarily dry at a rapid rate, and are continually replaced by the lacrimal gland. When the lacrimal gland fails, the half-life of artificial tears may be greatly prolonged by the use of the scleral contact lens as a protective barrier against the drying action of the atmosphere. Thus, the difficult and sometimes hazardous process of frequent installation of artificial tears may be avoided. The lens acts in this instance to substitute, in part, for the functioning of the diseased lacrimal gland and may be covered as a prosthetic device in the rare case when it is used in the treatment of "dry eye."

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§1305. Reimbursement

A. Reimbursement for artificial eyes, scleral shells, and the related services shall be at 90 percent of the 2004 Medicare fee schedule or billed charges; whichever is the lesser amount. If not available at the established flat fee, the flat fee that shall 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1030 (May 2004), amended LR 30:

Interested persons may submit written comments to Ben A. Bearden at the following address: 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, October 26, 2004 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Durable Medical Equipment
Program Prosthetics and Orthotics**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$17,430 for FY 04-05, \$20,671 for FY 05-06 and \$21,292 for FY 06-07. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 04-05 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 increase federal revenue collections by approximately \$42,770 for FY 04-05, \$51,079 for FY 05-06 and \$52,611 for FY 06-07. \$204 is included in FY 04-05 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the August 20, 2004 emergency rule, adopts criteria for the authorization of artificial eyes, scleral shell, and related services (approximately 125) and amends the reimbursement methodology. It is anticipated that implementation of this

proposed rule will increase expenditures for artificial eyes and related services by \$59,792 for FY 04-05, \$71,750 for FY 05-06 and \$73,903 for FY 06-07.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0409#036

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**

Pregnant Women Extended Services **C** Dental Services
(LAC 50:XV.16101)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.16101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated 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 currently provides coverage for dental services under the Early and Periodic Screening, Diagnosis and Treatment Program for Medicaid recipients up to age 21. Under the authority of Section 440.210(a)(2) and 442.220(a)(5) of the *Code of Federal Regulations*, the bureau expanded coverage of certain designated dental services to include Medicaid eligible pregnant women 21 years of age or older who evidenced the need for periodontal treatment (*Louisiana Register, Volume 30, Number 3*). The bureau now proposes to amend the March 20, 2004 Rule to clarify eligibility criteria for recipients who are certified for Medicaid as Qualified Medicare Beneficiary Only.

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 have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 as it will promote the health and welfare of Medicaid eligible pregnant women and their unborn children by addressing those periodontal needs that may affect the pregnancy.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the March 20, 2004 Rule to clarify eligibility criteria for recipients who are certified for Medicaid as Qualified Medicare Beneficiary Only.

Title 50

PUBLIC HEALTH **C MEDICAL ASSISTANCE**

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16101. Recipient Qualifications

A. ...

B. Pregnant women who are certified for Medicaid as a Qualified Medicare Beneficiary Only are not eligible for coverage of dental services unless these services are covered by Medicare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 30:

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, October 26, 2004, at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pregnant Women Extended
Services **C** Dental Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 04-05. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 04-05 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 not affect federal revenue collections other than the federal share of the promulgation costs for FY 04-05. It is anticipated that \$136 will be expended in FY 04-05 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to clarify eligibility requirements for Pregnant Women Extended Dental Services for Medicaid Recipients who are Qualified Medicare Beneficiaries. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Ben A. Bearden
Director
0409#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Commercial Lines Insurance Rate Deregulation (LAC 37:XIII.Chapter 93)

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, the Commissioner of Insurance hereby gives notice of his intent to adopt Regulation 80 implementing a regime of commercial policy rate deregulation. Adoption of the proposed regulation is authorized by Acts 2004, No. 878.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 93. Regulation 80 Commercial Lines Insurance Rate Deregulation

§9301. Authority

A. This regulation is adopted pursuant to R.S. 22:3 and R.S. 22:1401.1D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9303. Purpose

A. The purpose of this regulation is to implement the provision of Acts 2004, No. 878 of the Louisiana Legislature, Regular Session, which exempts commercial property and casualty insurers from the rate approval process unless the commissioner determines that the market for a line of insurance is noncompetitive. The regulation specifies the criteria the commissioner will use to determine if there exists a competitive or noncompetitive market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9305. Scope and Applicability

A. This regulation applies to all authorized insurers engaged in the business of writing commercial property and casualty insurance in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 30:

§9307. Severability

A. If any section or provision of this regulation is held invalid, such invalidity shall not affect other sections of provisions which can be given effect without the invalid section or provision, and for this purpose the sections and provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9309. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise:

Affiliated Group Two or more persons who are owned or controlled directly or indirectly through one or more intermediaries by, or are under common control with, the

person specified (i.e., the named insured) and includes a subsidiary.

Anticompetitive Behavior Can an insurer monopolizing or attempting to monopolize, or combine with or conspire with any person to monopolize, in any territory, the business of insurance of any kind, subdivision or class.

Authorized Insurer Shall have the meaning found in R.S. 22:5(3).

COI The Commissioner of Insurance for the State of Louisiana.

Commercial Risk Any kind of risk that is not a personal risk.

Exempt Commercial Policyholder A person who has and maintains an annual commercial insurance policy premium, excluding workers compensation and, if applicable, medical malpractice liability insurance premiums, of at least \$10,000 in the preceding fiscal year.

Noncompetitive Market A market in which a reasonable degree of competition for a line of insurance does not exist as specified in §9315; or a market which has been found to exhibit anticompetitive behavior or otherwise be in violation of R.S. 22:1211 et seq.

Insurer Shall have the meaning found in R.S. 22:5(10).

LDOI The Louisiana Department of Insurance.

Line of Insurance Means the lines of business included on the Exhibit of Premiums and Losses (Statutory Page 14) of the Annual Statement Blank.

Office of Property and Casualty Means the Office created by R.S. 36:688.

Person Can an individual, a corporation, a partnership, an association, a trust, a joint stock company, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert.

Personal Risk Means homeowners, tenants, private passenger nonfleet automobile, mobile home and other property and casualty insurance for personal, family or household needs.

State The state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9311. Types of Insurance Exempt From Rate Filing and Approval Process

A. All lines of commercial property and casualty insurance, including but not limited to Commercial Property, Boiler and Machinery, Fire and Allied Lines, Commercial Auto, General Liability, Non-Medical Professional Liability, Business Owners and Inland Marine insurance, written on commercial risks are exempt from the filing and approval provisions of R.S. 22:1401 et seq. if the policy is issued to an exempt commercial policyholder as defined in §9309, except for the following kinds:

1. workers compensation; and,
2. medical malpractice liability insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9313. Exempt Rates

A. If, after holding a public hearing, the commissioner has declared the market for a line of insurance competitive, then the rates employed for that line are exempt from the

filing and approval process. Any such public hearing shall comply with the Open Meetings law.

B. Exempt rates shall be used only when writing coverage on an exempt commercial policyholder. If exempt rates are used, an informational filing must be submitted to the Office of Property and Casualty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9315. Noncompetitive Market; Public Notice and Hearing

A. If the commissioner has reason to believe that a noncompetitive market for a line of insurance exists he shall give public notice in the manner specified in R.S. 22:1354C and conduct a public hearing.

B.1 In determining whether a reasonable degree of competition does not exist within a line of insurance, the COI shall consider the following factors:

- a. the number of insurers available to write the coverage;
- b. market shares of the leading writers and the changes in market shares over a reasonable period of time;
- c. existence of financial or economic barriers that could prevent new firms from entering the market;
- d. measures of market concentration and changes of market concentration over time;
- e. whether long-term profitability for insurers in the market is reasonable in relation to industries of comparable business risk;
- f. the relationship of insurers' cost to revenue over a reasonable period of time;
- g. the availability of insurance coverage to consumers in the markets by specific geographical area, by line of insurance and by class of risk;
- h. the extent to which any insurer or group of affiliated insurers controls all or a portion of the market; and;
- i. the opportunities available to consumers in the market to acquire pricing and other consumer information.

2. These factors must indicate that there is a competitive market in order for a determination to be made that the market is competitive for the line of business under review. If it is determined that a line of business is noncompetitive, the rates for that line of business shall be governed by the file and use provisions of R.S. 1401.1B until such time as a finding is made that the market is no longer noncompetitive.

C. The Commissioner shall hold an investigatory hearing to determine if the market is noncompetitive if he receives a written request from an aggrieved policyholder or any other affected person or organization. The request must specify the grounds relied upon by the complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9317. Disciplinary Hearings; Fines

A. If the commissioner has reason to believe that an insurer is engaging in anticompetitive behavior he may hold a hearing pursuant to an Order to Show Cause, ordering the

insurer to appear and show cause why it should not be sanctioned. In making a determination as to whether an insurer is engaging in anticompetitive behavior, the Commissioner may consider the factors listed in §9315.

B. The commissioner may hold a disciplinary hearing if he has reason to believe that an insurer is using exempt rates with a policyholder who does not qualify as exempt commercial policyholders.

C. If the commissioner finds that an insurer has violated or otherwise failed to comply with the provisions of this regulation he may impose such fines as are authorized by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

§9319. Effective Date

A. This regulation shall take effect on January 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:

Family Impact Statement

Proposed Regulation 80, LAC 37: XIII. Chapter 93 §9301 et seq., regarding deregulation of insurance rates for exempt commercial policyholders should not have any known or foreseeable impact on the family as defined by R.S. 49:972D or on family formation, stability or autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

A copy of the proposed regulation may be obtained by writing to the LDOI at the address shown below or by telephone at 225-342-4673. Copies may also be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 or by calling at 225-342-5015.

Interested parties may submit oral or written comments on the proposed regulation to Colleen Noël Wertz, Chief Attorney, Box 94214, Baton Rouge, LA 70804-9214; telephone: 225-342-4632. The deadline to submit comments is 5 p.m., October 22, 2004.

A public hearing on the proposed regulation is scheduled for 10 a.m. on October 21, 2004. The hearing will be held in the Plaza Hearing Room, Poydras Building, 1702 North Third Street, Baton Rouge, LA. Persons requiring special accommodations should contact the LDOI at 225-342-5203. No preamble regarding this proposed regulation is available.

J. Robert Wooley
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Commercial Lines Insurance
Rate Deregulation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No implementation costs to state or local governmental units are expected as a result of Regulation 80. Some decrease in workload may result for the Louisiana Insurance Rating Commission and the Office of Property and Casualty, which will no longer be required to review all rate changes for commercial property and casualty lines of insurance subject to Regulation 80.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that implementation of Regulation 80 will have any impact upon revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The deregulation of commercial lines P&C rates should, in the long run, result in a more competitive insurance market in the state, which will gradually result in lower rates for many commercial insureds. There is the potential that some rates may rise initially, but increased competition should, over time, decrease the costs of insurance in the state. Policyholders may pay higher rates initially, but as competition increases the rates should, gradually, go down. It is impossible to estimate the potential for initial increases or eventual decreases in premiums as a result of this regulation.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Regulation 80 should have a positive impact on competition and employment, over time. As to insurers, there is the possibility that eventually some insurers, may reduce their rate filing staff, but it is impossible to determine at this time whether such reductions may occur. Over time, competition among insurers should increase, resulting in improved market efficiencies and greater product availability for insurance consumers.

Chad M. Brown
Deputy Commissioner
0409#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**LSU Health Sciences Center
Health Care Services Division
Tumor Registry**

Tumor Registry (LAC 48:V.Chapter 85)

Under the authority of R.S. 40:1299.80 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., as amended, the President of the Louisiana State University System gives notice of his intent to adopt a rule to clarify the name of the responsible institution, require the ascertainment of follow-up data and the inclusion of benign and borderline brain tumors, clarify the confidentiality provisions when cancer data are provided to researchers or are exchanged with other state registries, adjust the cost of reimbursement when the Registry must abstract cases at noncompliant hospitals, and provide for related matters by supplanting Chapter 85 of Title 48 of the

Louisiana Administrative Code in its entirety with the following.

Title 48

PUBLIC HEALTH

Part V. Preventive Health Services

Subpart 31. Louisiana Tumor Registry

Chapter 85. Statewide Tumor Registry Program

§8501. Purpose

A. Louisiana R.S. 40:1299.80 et seq. established a "statewide registry program for reporting cancer cases for the purpose of gathering statistical data to aid in the assessment of the presence, extent, possible causes of specific cancers, and other related aspects of cancer ... in Louisiana." In carrying out this mandate, the Louisiana Tumor Registry collaborates with the National Cancer Institute, the Centers for Disease Control and Prevention, medical research institutions, and national and international cancer surveillance programs designated by the Louisiana Tumor Registry, and public health agencies. The importance of cancer registration was reinforced by the passage of federal legislation in 1992 (Public Law 102-515) establishing the National Program of Cancer Registries, in which Louisiana participates.

1. Acts No. 1197 of the 1995 Louisiana Legislative Session clarified the cancer-reporting responsibilities of medical care professionals and institutions, provided for intervention in cases of noncompliance, reinforced the confidentiality requirements to protect participants from civil liability, authorized the exchange of cancer incidence data with other states, and provided for related matters.

2. Acts No. 1138 §2 of the 1995 Session transferred the Louisiana Tumor Registry program and the Louisiana Cancer and Lung Trust Fund Board to the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, to be administered by the Louisiana State University Medical School at New Orleans.

3. Act No. 197 of the 2001 regular legislative session replaced "Secretary of the Department of Health and Hospitals" and "Secretary" with "President of the Louisiana State University System, or his designee" or "President" and replaced "Office of Public Health in the Department of Health and Hospitals" with "Office of the President." It also mandated the reporting of follow-up information and revised the liability requirement for data releases to qualified researchers and state cancer registries.

4. Acts No. 225 of the 2003 regular legislative session authorized the LTR to cooperate with other designated national and international cancer surveillance programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8503. Definitions

Confidential Data shall include any information that pertains to an individual case, as ordinarily distinguished from group, aggregate, or tabular data. Statistical totals of "0" or "1" may be deemed confidential, case-specific data. Confidential, case-specific data include, but are not limited

to, primary or potential human identifiers. In addition, in research involving data contained in the Centers for Disease Control's National Center for Health Statistics database, statistical totals of 5 or less are also deemed confidential data and are suppressed unless prior written consent of all of the affected respondents has been obtained in accordance with 42 U.S.C. §242k(1); 5 U.S.C. §552(b); and OMB order, Vol. 62, No. 124, 6/27/97, OMB Regulations pp. 35044ff; <http://www.cdc.gov/nchs/r&d/rdc.htm> (March 3, 2003).

Director The director of the Louisiana Tumor Registry, who is appointed by the President of the Louisiana State University System.

Health Care Provider Every licensed health care facility and licensed health care provider, as defined in R.S. 40:1299.41(A)(1), in the state of Louisiana.

Follow-Up Information Information that is used to determine survival rates for various types of cancer. The information consists of the patient name, case number, vital status, date of last contact regarding the patient, date of death, and cause of death if the patient is deceased.

Louisiana Tumor Registry/LTR The program in the Louisiana State University System that administers a population-based statewide cancer registry.

Regional Tumor Registry An organization that has contracted with the Louisiana Tumor Registry (LTR) to provide in its region such services as: screening medical records or pathology reports and abstracting data on all cancer cases, obtaining current follow-up information, compiling and editing data, performing quality assurance programs, training personnel from hospitals and other reporting facilities, and furnishing abstracts and/or electronic records of acceptable quality to the LTR from all medical facilities and health care providers in the parishes assigned to that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8505. Participation in the Program

A. Responsibility for Reporting. All hospitals, pathology laboratories, radiation centers, physicians, dermatology offices, nursing homes, and other licensed health care facilities and providers, as defined in R.S. 40:1299.41(A)(1), shall participate in the cancer registry program defined by R.S. 40:1299:80 et seq. Each patient, whether a resident of Louisiana or another state, who receives screening, diagnostic or therapeutic services for cancer in Louisiana shall be registered, and the LTR shall have physical access to all records that would identify cases of cancer or would describe a patient's disease, treatment, or medical status. Patients admitted to a Louisiana hospital shall be registered through the hospital. In addition, health care providers shall furnish follow-up data on each cancer patient when requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public

Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8507. Cancer Case Reporting

A. Reportable Cancer Cases. Any newly diagnosed in situ or invasive neoplasm is considered a reportable diagnosis (these bear a behavior code of '2' or '3' in the *International Classification of Diseases for Oncology*, 2nd edition (1992) or 3rd edition (2000), published by the World Health Organization. The two exceptions are: (1) carcinoma in situ of the cervix or prostate intraepithelial neoplasia and (2) basal cell and squamous cell carcinomas of the skin, unless they occur on the vermilion border of the lips or on the genital organs. In addition, the following tumors shall be considered reportable: juvenile astrocytoma (ICD-O-3 code M-9421/1); tumors with a behavior code of '0' (benign) or '1' (borderline) if diagnosed at ICD-O-3 anatomical sites C70.0–C72.9 or C75.1–C75.3; and other histologies mandated by funding agencies. If a patient subsequently develops a new primary cancer, it shall be reported separately.

B. Format for Reporting. The format for reporting, the required codes, and the standards for completeness and quality are described in the *Standards for Cancer Registries*, compiled by the North American Association of Central Cancer Registries. Text is required for specified variables and shall be adequate to permit quality assurance evaluation of coding decisions. Records shall be sent to the designated regional office, the address for which can be obtained from the Louisiana Tumor Registry.

C. Variables to be Reported

1. The standardized report of cancer shall include the following information as a minimum. Some of the items may be computer generated. Those followed by an asterisk must include enough text to permit quality assurance evaluation of coding decisions.

Report Source	
1.	reporting facility/physician *
2.	date of admission/first contact
3.	hospital medical record number
4.	hospital accession number
5.	class of case: analytic/non-analytic
6.	type of reporting source
7.	institutions referred to and from
8.	physicians: managing, surgeon, oncologist, follow-up, referring, other, including Louisiana medical license number
Patient Information	
9.	patient's name: first, last, middle, maiden, alias, prefix, suffix
10.	date and place of birth
11.	age at diagnosis
12.	sex
13.	race
14.	address at diagnosis: facility name, number and street, city, parish, state, zip code
15.	telephone number
16.	Social Security number
17.	marital status
18.	religion
19.	Spanish/Hispanic origin
20.	usual occupation *
21.	usual industry *
22.	tobacco history
23.	family and patient history of cancer
24.	type of health insurance
25.	comorbid conditions

Description of Disease	
26.	date of first diagnosis
27.	primary site *
28.	diagnostic procedures:* physical exam, X-rays, scans, scopes, lab tests, operative, pathology
29.	type of diagnostic confirmation *
30.	laterality
31.	histology *
32.	neoplasm behavior
33.	grade/differentiation
34.	tumor size
35.	nodes examined and nodes positive
36.	tumor extension and lymph node involvement
37.	sites of distant metastasis
38.	extent of disease
39.	summary stage, * directly coded or derived
40.	Collaborative Staging
41.	coding systems for site, morphology and treatment
42.	sequence number at the facility
43.	tumor markers and other site-specific factors
Treatment	
44.	dates of definitive and first course of treatment
45.	descriptions and summaries of treatments:* surgery (including primary site, regional and distant lymph nodes, and other sites), chemotherapy, hormone, biological response modification, hematologic transplant, endocrine procedures, radiation (including to central nervous system), other
46.	reason for no treatment, if applicable
47.	surgery/radiation sequence
48.	reconstructive surgery, immediate (breast only)
49.	complications from surgery
Survival	
50.	name and address of parent/spouse/follow-up contact
51.	date of last contact
52.	patient's current address
53.	vital status
54.	recurrence date and type
55.	place (state), date and cause of death
56.	death certificate file number
57.	International Classification of Diseases revision
Administration	
58.	abstractor's initials
59.	date case put in file to transmit to LTR
60.	remarks *
* must include enough text to permit quality assurance evaluation of coding decisions	

2. The report of cancer shall include the listed demographic, diagnostic, and treatment information as a minimum as required by U.S. Public Law 102-515. Standard variables and codes established by the North American Association of Central Cancer Registries (NAACCR) shall be used. Additional variables may be added to the list as they are needed to study Louisiana-specific cancer questions or as they are required by LTR funding agencies. The Louisiana Tumor Registry or its regional offices may require that other data be abstracted and reported.

D. **Deadline for Reporting.** Each cancer case shall be reported to the designated regional registry within six months of diagnosis.

E. **Failure to Report.** If a facility fails to provide the required information in the format specified by the Louisiana Tumor Registry or if the data are of unacceptable quality, personnel from the Louisiana Tumor Registry may enter the facility to screen and abstract the information. In these cases, the facility shall reimburse the Louisiana Tumor Registry or its contractor \$40 per case or the actual cost of screening, abstracting, coding and editing, whichever is greater.

F. **Quality Assurance.**

1. Staff members from the central registry, the regional registries, and national cancer surveillance programs designated by the LTR shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:

a. rescreening medical records, including those in hospital pathology and radiology departments and in freestanding facilities, to ensure that all cancer cases have been accessioned; and

b. reabstracting the records of cancer patients to ensure that all data have been transcribed and coded correctly.

2. Reporting facilities shall assist LTR staff by compiling a list of cancer patients and obtaining the necessary medical records for its departments and patients. The LTR and the regional registries shall also offer tumor registrar training for hospital personnel.

G. **Follow-Up.** Current follow-up is required for all cases. This information will be obtained from health care facilities and providers and from sources routinely used by national organizations, if possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1295 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8509. Confidentiality

A. R.S. 40:1299.85 and 1299.87 of Acts 1995, No. 1197, strengthen and enforce previous legislative provisions to ensure the confidentiality of cancer patients, health care providers, and health care facilities. These laws protect licensed health care providers and facilities that participate in the cancer registration program from liability, and they also specify confidentiality requirements for the expanded activities of the Louisiana Tumor Registry.

B. **LTR Responsibilities.** The president shall take strict measures to ensure that all case-specific information is treated as confidential and privileged. All employees or consultants, including auditors, of the Louisiana Tumor Registry and of its regional offices shall sign an "Agreement to Maintain Confidentiality of Data," and these agreements shall be kept on file. An employee who discloses confidential information through gross negligence or willful misconduct is subject to penalty under the law.

C. **Protection of Report Sources.** Health care providers who disclose cancer morbidity or mortality information to the Louisiana Tumor Registry or its employees in conformity with the law shall not be subject to actions for damages. Their licenses shall be not be denied, suspended, or revoked for good-faith release of confidential information to the Louisiana Tumor Registry.

D. **Protection of Case-Specific Data Obtained by Special Morbidity and Mortality Studies and Other Research Studies**

1. Louisiana R.S. 40:3.1(A) through (H) and R.S. 40:1299.87(F) state that all confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Office of Public Health shall be used solely for

statistical, scientific and medical research purposes. This applies also to data procured by any other person, agency or organization, including public or private colleges and universities acting jointly with the Office of Public Health in connection with special cancer studies, and health research investigations. No case-specific data shall be available for subpoena, nor shall they be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

2. No part of the confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured by employees or agents of the Louisiana Tumor Registry or persons, agencies or organizations, including public or private colleges and universities acting in collaboration with the Louisiana Tumor Registry in special cancer studies, shall be available for subpoena. These data shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1297 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8511. Release of Information

A. Reports published by the Louisiana Tumor Registry shall include aggregate, not case-specific, data. Information that would potentially identify a patient or a health care provider or facility shall not be published.

B. Diagnostic, Treatment and Follow-Up Information. Diagnostic, treatment and follow-up information about a patient shall be provided, if requested, to the physician or medical facility diagnosing or treating the case in order to coordinate and manage health care for the patient (45CFR 164.506).

C. Collaboration with Federal and State Public Health Agencies and National and International Cancer Registration Programs. The LTR is authorized to collaborate with the National Cancer Institute, the Centers for Disease Control and Prevention, and national and international cancer surveillance programs designated by the LTR, including but not limited to the North American Association of Central Cancer Registries and the International Agency for Research on Cancer, in providing cancer data and participating in cancer studies. In addition, it shall work closely with the Louisiana Office of Public Health (LOPH) in investigating cancer concerns and other cancer-related issues and in evaluating programs. Because the LTR data are an integral part of national and state cancer prevention and control programs, the use of Registry data by public health officials and LTR-designated national cancer registration and surveillance programs shall be considered an in-house activity and shall be processed expeditiously. Each LOPH request for case-specific data will require approval by the LOPH Institutional Review Board and by the Institutional

Review Board of the Louisiana State University Health Sciences Center—New Orleans (LSUHSC-New Orleans). In addition, the LOPH must comply with LTR confidentiality standards. Reports written for public release using Registry data will be reviewed in advance by the Louisiana Tumor Registry.

D. Requests for Case-Specific LTR Incidence Data. These data may be released to qualified persons or organizations for the purposes of cancer prevention, control, and research. Such data do not include confidential information collected for special morbidity and mortality studies or other research projects. Studies utilizing registry cancer data may investigate the causes of cancer, evaluate patient care and preventive services, or carry out any other clinical, epidemiological, or other cancer research, including the role of biomarkers in morbidity and survival.

1. Requests from researchers for case-specific LTR incidence data, including data linkages, must be submitted in writing and shall be reviewed and approved by a research committee following the established policies of the Louisiana Tumor Registry. These established policies include, but are not limited to, the following requirements:

a. approval from the LSUHSC—New Orleans Institutional Review Board and compliance with the LSUHSC-New Orleans HIPAA research policy or approval from the researcher's Institutional Review Board and compliance with that institution's HIPAA research policy;

b. signature of the LTR confidentiality form by all persons who will have access to the data, agreeing to adhere to the LTR confidentiality provisions prohibiting the disclosure of data to persons whose confidentiality forms have not been accepted by the LTR and prohibiting the disclosure of LTR data in any civil, criminal, administrative, or other proceeding;

c. description of reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the records;

d. a copy of the complete protocol for the project;

e. the written agreement to use data solely for the specified project;

f. a statement that publications or presentations resulting from the use of LTR data will include aggregate data only and will not reveal the identify of patients, healthcare providers, or healthcare facilities;

g. an agreement in writing from the researchers that neither the office of the president nor any reporting facility shall bear liability for loss, expense, attorney fees, or claims for injury or damages arising out of acts or omissions in the performance of this agreement on the part of the researcher;

h. the participation of the LTR director or designated staff in manuscript review to ensure compliance with confidentiality measures;

i. the destruction or return of data once the research is completed.

2. Data linkage with LTR files shall be performed only by the LTR staff, and the Registry may require the removal of identifiers to protect the identity of cases. The actual cost of the data linkage shall be borne by the researcher.

3. Researchers shall provide permission from the patient or his next-of-kin when requesting case-specific health information that includes primary identifiers; without

such, consent shall be obtained from the reporting facility or health care provider. This may include, if applicable, authorizations and waivers of informed consent. In addition, physician consent may be a prerequisite for contacting patients or their next-of-kin in some facilities.

4. A detailed description of the procedures for requesting Registry data can be obtained from the Louisiana Tumor Registry, at the address below. The Registry may charge a fee for providing data, and this fee shall be limited to actual costs incurred.

E. Research Committee. The research committee shall be coordinated by the director of the LTR and shall include, but not be limited to, the director of the LTR and a representative of each of the following: the LSUHSC-New Orleans, the Louisiana Office of Public Health, and the Louisiana Cancer and Lung Trust Fund Board. The committee will verify that the researchers are able to execute the proposal, in terms of both financial support and professional qualifications; that the study has scientific merit; and that consent will be obtained from all required sources.

F. Requests for Aggregate Data. Data required by the LOPH for responding to concerns expressed about threats to the public health shall receive priority in determining the order of processing requests. Subject to the provisions of the Louisiana Public Records Act, R.S. 44:4.1 et seq., other requests shall be processed in the order of their receipt. The Registry shall respond to public requests as quickly as possible, subject to staffing and resource constraints, provided that these requests meet certain requirements in conformity with R.S.40:3.1(A) and (F) and R.S.40:1299.87(F) et seq. Requesters may be asked to reimburse the LTR for actual costs for compiling and providing data.

1. Requests for aggregate information shall be made in writing to the address listed below. The letter shall include a return address; a clear description of the requested data, including geographical area, year of diagnosis, and anatomical sites; and a legible version of the requester's name. The LTR staff shall provide aggregate figures, provided that complete and accurate data are available for the specified time period. If complete edited data are not available for the period requested, the LTR staff shall substitute information from the most recent years that meet its completeness and accuracy standards. The privacy of individuals shall be protected by suppressing small numbers in given geographic areas, in accordance with statutory confidentiality protections for case-specific data. In no event, however, shall the LTR be obligated to perform original work to create new records not currently in existence.

G. Annual Report. A statistical report shall be prepared for the governor, the speaker of the House of Representatives, the President of the Senate, the House and Senate Committees on Health and Welfare, the Louisiana State University Health Sciences Center, the Louisiana Cancer and Lung Trust Fund Board, and each participating hospital.

1. Address and Phone of the Louisiana Tumor Registry

Louisiana Tumor Registry
1600 Canal St, Room 900A
New Orleans, LA 70112

Phone: 504/568-4716
Fax: 504/568-2493

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

§8513. Interstate Exchange of Data

A. Because cancer patients may be diagnosed or receive treatment in another state, the Louisiana Tumor Registry is authorized to sign agreements with other states to acquire cancer data concerning Louisiana residents and, in return, to provide those states with data relating to their residents. Each signatory state shall agree in writing to keep all case-specific data confidential and privileged and to abide by all Louisiana confidentiality regulations.

B. Data shall be exchanged only by the state central registries.

C. Cancer information on residents of other states, if the case was originally recorded in Louisiana and forwarded to the other state, shall not be included in special studies unless the researchers have obtained consent from the Louisiana Tumor Registry. These researchers shall comply with Louisiana confidentiality procedures.

D. Before the release of any confidential information to other cancer registries, the following Interstate Agreement form shall be executed by a representative of the other state central registry who is authorized to legally obligate the registry and by a representative of the Louisiana State University System. LTR staff may amend this agreement to comply with requirements by the LTR funding agencies. This Interstate Agreement obligates the other registry to keep non-aggregate, case-specific information confidential; it is not to be redisclosed without further written authorization.

**LOUISIANA TUMOR REGISTRY
CANCER PATIENT INFORMATION
EXCHANGE AGREEMENT
with**

_____ The office of the President of the Louisiana State University system, acting through the Louisiana Tumor Registry, and _____, hereinafter referred to as "Other," agree as follows:

(1) Services:

By signing this agreement, the parties state their intention to exchange cancer incidence data concerning cancer patients who are residents of the other's state in order to provide more complete case enumeration among their residents. This exchange is predicated on the mutual assurance that the identifying information on the patient that is exchanged is protected by law from release and shall be kept strictly confidential. This exchange does not pertain to any data

collected as part of special morbidity or mortality studies or other research projects.

In addition, the parties agree:

a) to provide the information following a mutually agreeable format and time table. It is expressly agreed that the identity of the patient and facility, along with any other pertinent identifying information routinely collected by both the Louisiana Tumor Registry and Other, will be provided.

b) to restrict carefully the use of information. The information may be used only for registry administration and for aggregated statistical tabulations and analyses.

c) to prohibit cancer incidence data or identifiable information on a case or a health care provider that was supplied under the terms of the agreement from being released to anyone not employed in the direct operation of the recipient registry or in direct operation of a national or international surveillance program designated by the recipient registry. Employees may include those involved in the processing, administration, quality control review, and statistical surveillance of cancer incidence data.

d) not to contact directly any subject cancer patients or their families covered by this agreement. Any request for additional or follow-up information shall be referred back to the other party to this agreement.

e) to terminate this agreement immediately upon the written notification of either party to terminate the agreement.

(2) Confidentiality:

The parties agree that:

a) any and all LTR incidence data that pertain to an individual case, as distinguished from group, aggregate, or tabular data, are confidential.

b) they shall require all officers, agents, and employees to keep all such data strictly confidential, shall communicate the requirements of this section to all officers, agents, and employees, shall discipline all persons who may violate the requirements of this section, and shall notify the collecting agency in writing within two working days of any violation of this section, including full details of the violation and corrective actions to be taken.

c) all data provided under the provisions of this agreement may be used only for the purposes named in this agreement. Any other or additional use of the data may result in immediate termination of this agreement by either party.

d) all data provided under the provisions of this agreement shall be sent by certified mail or courier service and are the sole property of the reporting state. They may not be copied or reproduced in any form or manner without prior written permission of the collecting agency.

e) in the event that either party receives a subpoena or other court order compelling disclosure of confidential data obtained through interstate data exchange, the parties agree to notify the registry that initially provided the data within two working days of receipt of the subpoena or court order. Additionally, the parties agree that, should they receive such a subpoena, they shall take all legal steps reasonably necessary to oppose the subpoena. Louisiana law states that "no case-specific data shall be available for subpoena nor shall it be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed to be admissible in any civil, criminal, administrative, or other tribunal or court for any reason."

f) confidential information obtained under the terms of this agreement will not be released to parties conducting research or other activities, even if the study has met the recipient state's approval requirements. Instead, the researcher or other requester must contact the registry providing the original report for permission to use the data. Researchers using data originally abstracted in Louisiana must abide by Louisiana confidentiality procedures, a detailed description of which may be obtained from the Louisiana Tumor Registry at the address below. De-identified data obtained through the data exchange may, however, be released

for statistical purposes to national or international surveillance programs designated by the recipient registry.

g) In no event shall either cancer registry bear liability for loss, expense, attorneys' fees, or claims for injury or damages arising out of acts or omissions in the performance of this agreement on the part of the other registry.

h) Unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct is not protected.

(3) Data from Special Studies

As stated in Subpart (1) above, this information exchange agreement does not encompass or apply to the confidential data of special morbidity or mortality studies and research investigations. These data are protected from disclosure by La. R.S. 40:3.1(A) through (H) and by R.S. 40:1299.87(F).

(4) Amendments:

This agreement shall not be amended without prior written approval of both parties to the agreement.

(5) Assignment:

The parties understand and agree that this agreement may not be sold, assigned, or transferred in any manner and that any actual or attempted sale, assignment, or transfer shall render this agreement null, void, and of no further effect.

(6) This agreement shall be in effect from date of execution until terminated by either of the parties. This agreement may also be terminated without cause by either party at any time upon at least 15 days' written notice of termination to the other party. Termination shall be sent in writing pursuant to Section (7).

(7) Notices:

All notices required or desired to be made by either party to this agreement shall be sent by certified mail or courier service to the following addresses:

to LTR: Director
Louisiana Tumor Registry
1600 Canal St, Room 900A
New Orleans, LA 70112

to Other:

(8) The parties hereto agree and warrant by signing this agreement that their agency has the right to keep the information covered by this agreement confidential.

(9) Total Agreement:

The parties understand and agree that this agreement constitutes the total agreement between them and that no promises, terms, or conditions not recited herein or incorporated herein or referenced herein shall be binding upon either of the parties.

Signed:

Agency: Louisiana Tumor Registry Agency: _____

By: _____ By: _____

Typed name: _____ Typed name: _____

Title: _____ Title: _____

Date: _____ Date: _____

Agency: Louisiana State University Health Sciences Center New Orleans

By: _____

Printed name: _____

Title: _____

Date: _____

Address and Phone Numbers for the Louisiana Tumor Registry
Louisiana Tumor Registry 1600 Canal St, Room 900A New Orleans, LA 70112 Phone: 504/568-4716 Fax: 504/568-2493

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Louisiana Tumor Registry, LR 30:

Interested persons may submit written comments no later than 4:30 p.m. on October 8, 2004 to Vivien W. Chen, 1600 Canal St., Room 900A, New Orleans, LA 70112.

Vivien W. Chen
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tumor Registry**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Tumor Registry (LTR) has sufficient funds to pay the approximately \$700 publication fee to the *Louisiana Register*.

No abstracting fees will be charged to non-complying state public hospitals.

The proposed changes will have little immediate impact on the LTR's day-to-day costs for routine case ascertainment and abstracting. The reporting duties added in the revised rules (abstracting benign and borderline brain tumors and performing follow-up) are already being carried out with existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

If the number of cases to be abstracted at non-complying hospitals rises and/or outside funding declines, the regional state registries will have to pay staff for overtime work or will have to hire contract abstractors to abstract those cases. In this case, the non-complying facilities will reimburse the LTR for its actual expenses. Currently, the \$35 maximum allowed is less than the actual cost of these services, and the new rules will mandate reimbursement of the full cost.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Hospitals may or may not be affected. The new rules stipulate that the LTR may be reimbursed \$40 per case or actual cost, if higher, by healthcare facilities that do not comply with R.S. 40:1299.81 et seq. by reporting cases to the Registry in a complete and timely fashion. Current rules allow reimbursement of \$35 per case, but the fees charged by contract abstracting services range from \$6 to \$100 per case; this fee would be borne by the non-complying hospitals. The number of cases to be reported for non-complying hospitals is not known. Present plans do not call for reimbursement by labs, freestanding radiation centers, nursing homes, or physician offices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LTR is a state agency and has no competition. The Registry anticipates no change in employment as a result of these revisions.

Vivien W. Chen
Director
0409#095

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Driver's License (LAC 55:III.145)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et. seq. and R.S. 32:402.1(A)(2) gives notice of its intent to amend its rules regulating commercial driving schools to recognize a statutory increase in student fees (from \$25 to \$50 per student) to be charged for a six-hour pre-licensing course.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§145. Commercial Driving School Six Hours

A. - H. ...

1. The total fee for a prelicensing course shall not exceed \$50 per student. This shall cover all expenses including the cost of the original and one additional copy of the certificate of completion provided to each student. The original with the original signatures must be submitted to the Office of Motor Vehicles when the student makes application for his/her driver's license or learner's permit. The copy is for the student's personal file or insurance purposes (if needed).

H.2. - O.15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:409.1

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 22:286 (April 1996), amended by the, Department of Public Safety and Corrections, Office of State Police, LR 30:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These Rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2004.

Stephen Hymel
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Driver's License**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This change in agency Rule, raising the fee for the six-hour prelicensing driver training course as authorized by a recent legislative amendment, will not result in any increased costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will have no effect on revenue collections of state or local governmental units, as the increased fees are paid to private commercial driving schools.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Private commercial driving schools that offer the six-hour prelicensing driver training course will experience an economic benefit due to their ability to raise the fees for each student attending such courses. The amount of the benefit will depend on the number of students taught this course by each school, which number varies greatly by school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as the proposed Rule change will have an equal impact on all commercial driving schools.

Stephen J. Hymel
Undersecretary
0409#070

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Safety Enforcement Section**

Motor Vehicle Inspection (LAC 55:III.807)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with R.S. 49:950 et seq. and R.S. 32:1301 et seq. gives notice of its intent to amend its Rules regulating vehicle inspections by creating a two-year inspection sticker for new, never before registered, passenger cars and trucks to be issued by new car dealers.

**Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 8. Motor Vehicle Inspection
Subchapter B. Safety Inspections
§807. Operation as an Official Motor Vehicle
Inspection Station**

A. - B.1 ...

C. Official Motor Vehicle Inspection Sign (Public Stations Only)

1. All public Motor Vehicle Inspection stations will be required to display an official Motor Vehicle Inspection sign. The sign shall contain the following language: "Official Motor Vehicle Inspection Station" and shall display the seal of the state of Louisiana. The days and hours of operation must also be displayed. The sign must be displayed in such a manner as to be easily seen and readily distinguishable as an Official Motor Vehicle Inspection Station by the motoring public.

2. ...

D. Periods of Inspection

1. All vehicles inspected under the provisions of R.S. 32:1301 through R.S. 32:1314 (Motor Vehicle Inspection Law) shall be inspected at least once annually, except as provided in Subparagraph a below.

a. Effective January 3, 2005, the department will implement a two-year inspection certificate program. During the initial phase of the program, automotive dealers of new cars and light trucks, which possess current inspection station licenses, shall be authorized to affix a two-year inspection certificate to every new passenger car or light truck sold. The department may authorize all inspection stations in the state to participate in the two-year inspection program, provided at least 12 months have elapsed from the effective date of the program. Where the registration of a vehicle indicates the domicile of the owner is in a parish that has been placed on the nonattainment list for ozone standards by the United States Environmental Protection Agency, that vehicle shall not be eligible for a two-year inspection certificate.

b. The fee for inspection of a passenger car or light truck and all other vehicles shall be \$10 for each year, except passenger cars or light trucks in nonattainment parishes and municipalities shall be \$18.

c. The department shall require an inspection station to make an advance payment of \$10.50 for each two-year inspection certificate issued and \$5.25 for each single-year inspection certificate issued. An inspection station may waive the fee due from the owner of the vehicle inspected. Inspection stations may redeem un-issued certificates for a refund in a manner prescribed by the Office of Motor Vehicles.

D.2. - F.4. ...

5. Motor vehicle inspection certificates and rejection certificates, requisitions forms, weekly/monthly log reports and all other documents may be obtained from the department.

G. - I.1. ...

2. Torn, voided or damaged inspection or rejection certificates must be recorded on the log report. Lost or stolen certificates must also be listed numerically on the report (see Lost or Stolen Inspection/Rejection Certificates)

3. ...

4. The public Motor Vehicle Inspection station's week will begin on Saturday and end at the close of business on the following Friday.

5. Dealer, fleet, public and government Motor Vehicle Inspection stations will no longer be required to submit log reports to the department.

6. Log reports shall be kept in the log book at the Motor Vehicle Inspection station for fourteen (14) months. These reports shall be available for inspection by department personnel or law enforcement officers.

7. If a station does not inspect any vehicles during a given week (public) or month (fleet, government or dealer), a log report shall be prepared with the word "none" written across the report.

8. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 -1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2424 (December 1999), amended 27:2260 (December 2001), repromulgated LR 28:345 (February 2002), amended LR 30:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These Rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to: Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2004.

Stephen Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Motor Vehicle Inspection

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This change in agency Rule proposes the creation of a two-year Motor Vehicle Inspection (MVI) sticker for new, never before registered, passenger cars and trucks. The Office of Motor Vehicles sells MVI stickers to licensed MVI stations. The proposed change in Rule will allow the Office of Motor Vehicles to sell a two-year MVI sticker to licensed new car dealers who sell passenger cars and trucks during the pilot phase of the program. As a result, the agency may see a one-time cost of approximately \$1,000 for the first year of implementation due to vendor design and artwork to

differentiate between the one- and two-year MVI stickers. Material costs should decrease marginally over time due to the longer period for which the stickers are valid.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

With an implementation date of January 5, 2005, the Department of Public Safety and Corrections will realize an increase of approximately \$250,000 in revenues in fiscal year 2004-2005 resulting from this proposed Rule change. There will likewise be increased revenues in the same amount for fiscal year 2005-2006. In subsequent fiscal years, there will be no anticipated impact on revenue collections. These figures are based upon the number of vehicles anticipated in the pilot program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

New car dealers will experience an increase in revenue during the calendar year of 2005 of approximately \$500,000 annually. Official Motor Vehicle Inspection stations open to the public should experience a decrease in revenue in aggregate commensurate with increased revenues to new car dealers during the pilot program. Some stations will lose more, some stations will lose less, but, on average, the annual loss in gross MVI sticker sales will be approximately \$400 per year for each public MVI station. MVI stations in parishes placed on the non-attainment list for ozone standards by the EPA will not be affected by this Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment for Official Motor Vehicle Inspection Stations is minimal. The proposed Rule change results in each public Motor Vehicle Inspection station performing on average 30 less inspections annually, or in terms of percentage, an approximate annual reduction in sticker sales of 3 percent per station.

Jill P. Boudreaux
Deputy Undersecretary
0409#071

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Responsible Vendor Program
(LAC 55:VII.503-511)

Under the authority of R.S. 26:933 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, is proposing to amend LAC 55:VII.501-509 and adopt LAC 55:VII.511 pertaining to the Responsible Vendor Program.

Act 881 of the 2003 Regular Session of the Louisiana Legislature amended R.S. 26:932-935 and 939, relative to the Responsible Vendor Program; to include the serving or selling of tobacco products in the Responsible Vendor Program. These proposed amendments and regulation implement the provisions of the Act by providing that the requirements of the Responsible Vendor Program apply to servers of alcoholic beverages and tobacco products.

The Responsible Vendor Program minimum course standards were moved from LAC 55:VII.509.F to Section 511 and provisions were added for a tobacco products course, which does not include alcoholic beverages, and

minimum standards and certification for an abbreviated renewal course.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 5. Responsible Vendor Program

§503. Definitions

A. For purposes of this Chapter, the following terms are defined.

* * *

Server. Any employee of a vendor who is authorized to sell or serve beverage alcohol, tobacco, and tobacco products in the normal course of his or her employment or deals with customers who purchase or consume beverage alcohol, tobacco or tobacco products.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998), amended LR 30:

§505. Vendors

A. Certification and Enrollment as a Responsible Vendor

A.1. - 3. ...

4. The vendor shall pay an annual fee of \$50 per licensed establishment holding a Class A-General, Class A-Restaurant, or Class B-Retail permit for the purpose of funding development and administration of the Responsible Vendor Program.

a. The fee shall be assessed on all new and renewal applications for retail permits to engage in the business of dealing in alcoholic beverages and/or tobacco and tobacco products.

A.4.b. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998), amended LR 30:

§507. Servers

A. ...

B. Server Permit

1. Server permits shall be valid for two years from the completion of an approved Responsible Vendor training course.

B.2. - C. ...

D. Permit Expiration, Renewal, and Lost Permits

1. Every server permit shall expire on the last day of the month, two years after the month that the server successfully completed the applicable responsible vendor server course.

2. To be eligible for renewal of a server permit, the server shall attend and successfully pass an approved abbreviated renewal responsible vendor course and examination given by an approved provider.

D.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998), amended LR 30:

§509. Training: Providers and Trainers

A. Trainer Certification. Approved providers shall only contract with trainers that have any combination of a minimum of two years of:

1. verified full-time employment in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality, retail industry that involved the sale or service of alcohol or tobacco products; or

2. post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality or retail industry that involved the sale or service of alcohol or tobacco products.

B. Provider Certification

1. A person or business entity that applies to become an approved provider for alcohol and tobacco server training shall submit the following to the program administrator:

1.a. - 2. ...

C. The alcohol and tobacco server permits issued by the program providers to students who successfully complete the server training programs shall be obtained from the Office of Alcohol and Tobacco Control.

D. - E.3. ...

F. Approved Provider Minimum Course Standards. To be certified to issue a server permit, the provider's course of instruction must include the subject areas specified in R.S. 26:933(C) in accordance with LAC 55:VII.511.

G. Approved Server Training Course Fees. Approved providers may charge fees for the cost of conducting the approved server training courses. The fees shall be approved by the program administrator and the commissioner and may not exceed \$25.

H. Sanctions against Approved Providers and Trainers. Any approved provider or trainer who violates any of the provisions of Title 26 of the Louisiana Revised Statutes or any of the requirements of Chapter 5 shall:

1. for a first offense receive a notice of intended suspension or revocation of the program administrator's certification or authorization, with 30 days allowed to correct any violations. If the violation is rectified no further action will be taken;

2. if the violation is not rectified or a second violation by the provider or their trainer occurs, the program administrator or their designee shall suspend approval and certification of the provider or trainer for a period not to exceed six months. Before the suspension will be lifted, the provider or trainer shall correct all violations;

3. the program administrator or their designee may increase sanctions based on successive violations within a two-year period. Numerous violations within a two-year period may indicate disregard for the law or failure to provide an acceptable Responsible Vendor server program so as to warrant cancellation of the certification of either the provider or their trainer.

I. Approved Provider Responsible for Acts of Trainers. The program administrator may hold a provider responsible for any act or omission of the provider's program, personnel, trainers, or representatives that violate any law or administrative rule pertaining to approved providers' privileges.

J. Prohibited Conduct. No approved provider or authorized trainer shall:

1. make any false or misleading statement to induce or prevent the program administrator's actions;

2. falsify, alter, or otherwise tamper with Responsible Vendor server permits or records;

3. permit a student to refer to any written material or have a discussion with another person during the exam unless the instructor authorizes the student to use an interpreter;

4. permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or examination, including breaks;

5. drink alcoholic beverages or be under the influence of intoxicants during the course presentation or examination, including breaks;

6. prohibit, interfere, or fail to assist the program administrator or their designee with scheduling or attendance of on-site observations.

K. Approved Provider and Trainer Advertising and Promotion Standards

1. Approved provider and trainer advertising related to the Responsible Vendor server training courses shall include:

a. the approved provider's or trainer's telephone number and cancellation policy;

b. the total amount of course time that includes instruction, examination and breaks;

c. a statement that students shall attend the entire course before taking the examination.

2. Advertising shall not suggest that the state of Louisiana, the program administrator, or any state agency endorses or recommends the approved provider's program to the exclusion of any other program.

3. Upon request, the approved provider or trainer shall give the program administrator copies of the program publications, brochures, pamphlets, scripts, etc. or any other representation of advertising materials related to the program.

4. An approved training provider or trainer must have records available to support all advertising claims or representations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998), amended LR 30:

§511. Responsible Vendor Program Minimum Course Standards

A. Classroom Instruction

1. Alcoholic Beverage and Tobacco Products Training must include at least two hours of classroom instruction, exclusive of breaks and examination time, presented in a continuous block of instruction. Classes shall be limited to no more than one 10-minute break per hour.

2. Tobacco Products must include at least one hour of classroom instruction, exclusive of breaks and examination time, presented in a continuous block of instruction.

B. The approved server training course shall be presented in its entirety to each student in a language approved by the program administrator.

C. Each server training course must include an examination approved by the program administrator, which is administered by the trainer immediately following the

course presentation. Students shall take the examination in writing, unless special circumstances require an oral examination. With the approval of the program administrator, the test may be offered in a language best understood by the student, or bilingual trainers may, in response to direct inquiries, clarify test questions using another language. Each student shall correctly answer at least 70 percent of the examination questions. Students who receive failing scores may be retested once at a time and place to be determined by the trainer. Otherwise, students must repeat the full course for an additional fee.

D. All training facilities shall meet the requirements of the Americans with Disabilities Act (ADA) and shall have adequate lighting, seating, easily accessible restrooms, and comfortable room temperature.

E. At the beginning of each server training course, the trainer shall give each student:

1. an enrollment agreement that clearly states the obligations of the trainer and student, refund policies, and procedures to terminate enrollment;

2. a notice that a student must complete the course in order to take the examination;

3. a server training workbook, approved by the program administrator, that is current, complete, and accurate. The workbook shall include an outline of the minimum course curriculum, table of contents, titles, subheadings, and page numbers. Physical specifications must meet the following minimum standards:

a. minimum dimensions of paper size must be 8 1/2 by 11 inches;

b. paper stock, excluding front and back cover, shall be white or near white, and of a quality and weight suitable for reproduction and note-taking with no ink bleed through;

c. type must be a minimum of 11-point in a type style commonly used for textbooks and periodicals;

d. binding must firmly hold the pages together in correct order and be sufficient for use during the course and as a reference;

e. professional printing and typesetting are not required, but reproductions must be clear, readable, and letter quality;

f. for ease of reading and adequate room for note-taking, white space must be a minimum of 30 percent per page with the print or copy to be no more than 70 percent of the page.

F. No server training class shall include more than 100 students and students that arrive more than 15 minutes after the class begins shall not be admitted.

G. The classroom presentation must be consistent with the approved program.

H. Discussions must be pertinent to responsible beverage alcohol or tobacco sales, service, and consumption.

I. The program administrator or their designee may attend any class to evaluate conformance with the program certified by the program administrator.

J. At least seven days in advance, the approved provider or their authorized trainers shall give written notice to the Office of Alcohol and Tobacco Control of the date, time, and location of all courses scheduled. The Office of Alcohol and Tobacco Control shall be notified by phone or fax of course cancellations prior to the course date except when cancellation cannot be anticipated, in which case notification

shall be within three business days of the scheduled course date.

K. Minimum Course Standards for Alcoholic Beverage and Tobacco Product Training. To be certified to issue a server permit, the provider's course of instruction shall include the subject areas specified in R.S. 26:933(C), as well as the following.

1. Introduction:

a. brief review of the law creating the Louisiana Responsible Vendor Program, which shall include when the program was enacted, who is required to participate and how, when it becomes mandatory, nature of permits issued to server, when server permits expire, obligation of server to attend a course every two years, and server renewal procedures;

b. objectives of the Responsible Vendor Program, which shall include education of vendors, servers, and their customers about responsible sales, service, and consumption of alcohol and tobacco; and prevention of the misuse, illegal use, and abuse of alcohol;

2. Alcoholic Beverage and Tobacco Products Course

a. classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle:

i. alcohol is a depressant not a stimulant;

ii. how alcohol travels through the body, including how quickly it enters the bloodstream and reaches the brain;

iii. alcohol's effect on a person's ability to drive a motor vehicle, specifically reviewing alcohol's effect on a person's behavior, self-control, and judgment;

iv. outline of Louisiana's driving while intoxicated laws and penalties for violations;

b. effects of alcohol when taken with commonly used prescription and nonprescription drugs:

i. mixing alcohol with other drugs can produce dangerous side effects. It is especially dangerous to drive under the influence of alcohol and other drugs because of the increased impairment due to both;

ii. alcohol and other depressant drugs. Mixing alcohol with other depressants dangerously increases the depressant effect on the body;

iii. alcohol and stimulants. Stimulants do not cancel the intoxication and impairment due to alcohol;

iv. alone, many prescription and nonprescription drugs impair the ability to drive a motor vehicle;

v. the effects of commonly used prescription and nonprescription drugs;

vi. review of the effects of contemporary designer drugs such as GHB and Rohypnol;

c. absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate:

i. rate at which the human body absorbs alcohol;

ii. blood alcohol concentration (BAC) and how to estimate a person's BAC. Include drink equivalency guidelines;

iii. how the human body disposes of alcohol;

iv. the effect of food on the absorption rate;

v. time is the only real factor that reduces intoxication;

d. methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons:

i. procedures and methods for detecting false identification;

ii. procedures and methods for denying service or entry to underage persons;

iii. procedures and methods for identifying intoxicated persons including behavioral warning signs and other signs of impairment;

iv. procedures and methods for preventing over intoxication;

v. procedures and methods for terminating service to intoxicated persons;

e. state laws and regulations regarding the sales and service of alcoholic beverages for consumption on or off premises:

i. legal forms of identification in Louisiana;

ii. legal age to purchase, possess, and consume alcohol and penalties for violation;

iii. legal age to enter licensed premises and penalties for violation;

iv. legal age to be employed by a vendor and penalties for violation;

v. acts prohibited on licensed premises and penalties for violation;

f. parish and municipal ordinances and regulations that affect the sale and service of alcoholic beverages for consumption on or off the licensed premises. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality:

i. legal hours of operation and Sunday sales;

ii. noise, litter, and zoning;

iii. leaving premises with alcohol;

iv. preemption of parish and municipal server training courses;

v. parish or municipal server licensing requirements;

vi. other relevant regulations;

g. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:

i. state and federal legal purchasing age;

ii. federal age verification requirements;

iii. state and federal laws and regulations related to vending machines;

iv. state laws related to sign posting requirements;

v. state laws related to minimum packaging requirements.

3. Tobacco Products Course

a. outline and review of all relevant changes to local, state, and federal laws, rules and regulations affecting the retail operation of tobacco businesses. With regard to local laws, rules and regulations, each approved provider shall determine the changes for each jurisdiction in which it offers Tobacco courses and submit their local tobacco curriculum to the program administrator for approval;

b. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:

- i. state and federal legal purchasing age;
 - ii. federal age verification requirements;
 - iii. state and federal laws and regulations related to vending machines;
 - iv. state laws related to sign posting requirements; state laws related to minimum packaging requirements.
 - c. State laws and regulation regarding the sales and service of tobacco products:
 - i. legal form of identification in Louisiana;
 - ii. procedures and methods for detecting false identification.
 - d. Guidelines for prevention of tobacco use and addiction:
 - i. health risks;
 - ii. addiction problems with adolescents;
 - iii. health effects of smoking among young people.
 - e. What you should know about tobacco:
 - i. tobacco and athletic performance;
 - ii. tobacco and personal appearance.
 - f. State laws and regulations regarding the sales and service of the Louisiana Lottery Corporation Law:
 - i. a review of the Louisiana Lottery corporation Law, which shall include when it was established;
 - ii. legal age to purchase a lottery ticket and penalties for violation;
 - iii. legal age to claim a lottery ticket;
 - iii. legal age to sell lottery ticket;
 - iv. advertisement;
 - g. parish and municipal ordinances and regulations that affect the sale and service of tobacco products. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality.
- L. Minimum Standards and Certification for an Abbreviated Renewal Course
1. To be certified to conduct abbreviated renewal server training courses, the approved provider's course of instruction shall include the following.
 - a. An outline and review of all relevant changes to local, state, and federal laws, rules and regulations affecting the retail operation of alcohol beverage and or tobacco businesses. With regard to local laws, rules and regulations, each approved provider shall determine the changes for each jurisdiction in which it offers abbreviated renewal courses and submit their local renewal course curriculum to the program administrator for approval.
 - b. Statistics related to drunk driving arrests, accidents and fatalities in Louisiana. The approved provider shall incorporate the statistics into their abbreviated renewal course curriculum in the same form and content that it is provided by the program administrator and compiled from the most current annual report of the Louisiana Highway Safety Commission or National Highway Traffic Safety Administration.
 - c. Techniques to prevent persons suspected of being intoxicated from operating motor vehicles.
 - d. Any other information relevant to the prevention of drunk driving.
 - e. Information concerning societal and health concerns related to the use of tobacco products.
 2. All abbreviated renewal course program content and method of presentation shall be approved by the

Program Administrator prior to conducting any abbreviated renewal server training courses.

3. All abbreviated renewal server training courses shall include at least one hour of classroom instruction exclusive of breaks and examination time, and shall be presented in a continuous block of time.

4. Each abbreviated renewal server training course shall include an examination approved by the program administrator.

5. Prior to teaching an abbreviated renewal server training course, the trainer must receive proof of prior training from the server. This proof may consist of a server permit not having expired for longer than one year, or any other proof deemed valid by the discretion of the trainer.

6. Unless otherwise provided for in this Subsection, all other regulations applicable to regular server training courses shall apply to renewal server training courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 30:

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Budget. Implementation of this proposed Rule will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Brian DeJean, Office of Alcohol and Tobacco Control, 8549 United Plaza, Baton Rouge, LA 70809 or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m. on October 20, 2004. A public hearing will be held at 10 a.m. on October 22, 2004, in the Hearing Room of the Office of Alcohol and Tobacco Control.

Murphy J. Painter
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Responsible Vendor Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of these proposed amendments and regulation to put into effect the provisions of Acts 2003, No.

881, which added tobacco only dealers to the requirements of the Responsible Vendor Program, would result in additional administrative costs resulting from regulating a new and separate group of permit holders. In addition, ATC, will incur additional costs for providing a separate tobacco only permit to servers who attend the tobacco only training course. The total amount of additional costs to the state is not known at this time because there is no data as to the number of tobacco only dealers or the number of tobacco servers. Implementation will have no effect of local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of these proposed amendments and regulation would result in additional self-generated revenues for the Office of Alcohol and Tobacco Control from the \$50 annual fee paid by the tobacco only dealers. An estimate of total additional revenue collections can not be made at this time, due to the uncertainty in the number of tobacco dealers that will participate. These proposed amendments and regulation will have no impact on local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments and regulation will result in additional costs to tobacco vendors who will be required to pay the \$50 annual Responsible Vendor Program fee and to tobacco servers, who will be required to attend the \$25 server training courses every two years. The income and receipts of Responsible Vendor training course providers will benefit by the additional tobacco product servers that will be required to attend the \$25 server-training course.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments and regulation will have no effect on competition or employment.

Murphy J. Painter
Commissioner
0409#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Collection Uniform State and Local Sales Tax Definitions
(LAC 61:I.4307)**

Under the authority of R.S. 47:303, R.S. 47:337.2, R.S. 47:337.15 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4307 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local

collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4307. Collection

A. Collection from Dealers

1. All of the taxes imposed under R.S. 47:302, R.S. 47:321, R.S. 47:331, and *local sales or use tax* ordinances are governed by these provisions. Every person engaged as a *dealer*, which R.S. 47:301 defines to be either party to a transaction creating a tax liability under *state* and *local sales and use tax* law, is made liable for collection of the tax. Dealer includes both the seller and the purchaser of tangible personal property, the person who uses, consumes, distributes, or stores tangible personal property in a *taxing jurisdiction* to be used or consumed there if an applicable *state* or *local sales or use tax* has not previously been paid thereon, the lessor or lessee, the rentor or rentee of tangible personal property rented or leased within the taxing jurisdiction, and the person who performs or furnishes any of the services covered by R.S. 47:301(14) or the person for whose benefit the services are furnished.

2. The importation of tangible personal property from outside of a *taxing jurisdiction*, to be used, consumed, distributed, or stored to be used or consumed in the *taxing jurisdiction* is treated the same as if the articles had been sold at retail for any of those purposes within the *taxing jurisdiction*, and such articles are thereby taxable to the person who causes them to be imported. The taxes levy immediately, and can be collected immediately. There shall be no tax on the importer, however, if all applicable taxes imposed under *state* and *local sales or use tax* law have been previously paid. Sections R.S. 47:303 and 47:337.15 clearly provide that there shall be no duplication of these taxes.

3. Solely for *state sales and use tax* purposes, if a tax similar to that imposed by R.S. 47:302, 321, and 331 is imposed by the state from which property is imported and if the state from which imported allows a credit to persons who import tangible personal property into that state for any sales or use tax which might have previously been paid to the state of Louisiana, a credit will be allowed against Louisiana's *state sales and use tax* for the tax paid to the other state. In order for the credit to be operative, both of the qualifying conditions must be met. The importer must have paid a similar tax upon either the sale or use of the same identical property in another state and the other state must allow a credit similar to this credit. The only exception to the double qualification standard is in the case of military personnel who are enlisted for two years or more who purchase automobiles outside the state of Louisiana while on their tour of active duty. In this instance, the credit will be allowed for the taxes paid the other state, whether or not that state allows a similar credit for Louisiana taxes paid.

4. Solely for *state sales and use tax* purposes, the use tax is based on either the cost of the tangible personal property being imported or its fair market value at the point

at which it comes to rest in the state of Louisiana, whichever is the lesser of the two. Most frequently, the value upon which the Louisiana use tax is based will be less than original cost on which the taxpayer paid tax in the state of purchase. In those instances, credit will be allowed against the Louisiana use tax only in an amount equal to the tax rate paid to the other state, as distinguished from local government in the other state, applied to the value being taxed under the Louisiana law. No credit will be allowed against the Louisiana use tax for taxes paid to political subdivisions in another state or to foreign countries. In no event will a credit greater than the tax imposed by Louisiana on any particular piece of tangible personal property be allowed.

5. Solely for *state sales and use tax* purposes, in any case in which a taxpayer claims credit for a tax paid to another state, he must be in a position to prove payment of the tax before the credit will be allowed. The precise proof required will vary with the nature of the property and the circumstances surrounding its importation into the state.

6. For *local sales or use tax* purposes, the credit for taxes paid is governed by R.S. 47:337.86.

B. Collection of Tax on Vehicles

1. In view of the regulatory function performed by the vehicle commissioner in issuing license plates for the registration of vehicles and in issuing certificates of title to vehicles, R.S. 47:303(B) provides that all sales taxes levied *state* and *local taxing authorities* on the sale or use of vehicles shall be paid to the vehicle commissioner as the agent of the *secretary* or local *collector*, if so contractually provided, before a certificate of title or vehicle registration can be issued. The vehicle commissioner serves as agent for the collector only with respect to those vehicles required to be registered and/or titled with the vehicle commissioner. Generally, this covers all vehicles which have been found to be safe for highway use and can pass safety inspection. While R.S. 47:303(B) makes the vehicle commissioner the agent of the *collector* for purposes of collecting the taxes, the *collector* is the only proper party to defend or institute any legal action involving the taxes imposed with respect to any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi trailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration or title requirements. Conversely, the *collector* has no authority or jurisdiction whatever in the issuance of vehicle registration licenses or vehicle titles. This is the absolute domain of the vehicle commissioner.

2. The sales taxes levied by R.S. 47:302(A)(1), 47:321(A)(1), 47:331(A)(1), and the ordinances of *political subdivisions* is due at the time of registration or transfer of registration as required by the vehicle registration license tax law. The use taxes levied by R.S. 47:302(A)(2), 47:321(A)(2), 47:331(A)(2), and the ordinances of *political subdivisions* on the use of a vehicle in this state is due at the time first registration in this state is required by the vehicle registration license tax law. That law basically requires that a vehicle purchased in Louisiana be registered immediately upon purchase. Consequently, the sales taxes are due at the time of the purchase transaction. The vehicle registration license tax law basically provides that the vehicle shall be registered in this state immediately upon its importation for

use in Louisiana. The use taxes, therefore, become due when the vehicle has entered the state for use.

3. For purposes of the sales taxes, every vendor is required to furnish to a purchaser at the time of a sale, a sworn statement fully describing the vehicle including the serial number, the motor number, the type, year, and model of the vehicle, the total sales price, the amount of any allowance, and a full description of any vehicle taken in trade, the net difference being paid by the purchaser between the vehicle purchased and the one traded in, and the amount of sales or use tax to be paid. Every component of the vehicle attached thereto at the time of the sale and which is included in the sales price, including any labor, parts, accessories, or other equipment, are considered to be a part of the vehicle and not a separate item of tangible personal property. The vehicle commissioner has the right to examine the statement furnished to the purchaser at the time of the sale and in any case in which he determines that the total sales price or the allowance for the vehicle traded in do not reflect reasonable values, he may adjust either to reflect the fair market value of the vehicle involved. Generally, this will be done by reference to current values published by the National Automobile Dealers Association. This revaluation is solely for the purpose of determining the proper amount of sales or use tax due and in no way influences the prices agreed upon between the buyer and the seller. The vehicle commissioner also has the authority to require affidavits from either the vendor or the purchaser, or both, to support a contention that some unusual condition adversely affected the cited sales price. In any event, the minimum tax due shall be computed on the consideration cited as the difference paid by the purchaser between the vehicle purchased and the vehicle traded in.

4. - 4.g. ...

h. The sales or use tax due to *state* and *local taxing authorities* shall be computed on gross sales price of the new vehicle in the case of a sale, or on the cost price of the new vehicle in the case of a transaction subject to the use tax, less the previously established actual trade-in value of the trade-in vehicle.

h.i. - 5. ...

6. The sales tax exemption for isolated or occasional sales of *tangible personal property* provided by R.S. 47:301(10)(c)(ii) does not apply to sales of motor vehicles. R.S. 47:303(B)(4) provides that isolated or occasional sales of vehicles are specifically defined to be *sales at retail* and subject to *state* and *local sales or use tax*.

7. The vehicle commissioner may require any dealer engaged in the business of selling motor vehicles, automobiles, motorcycles, trucks, truck-tractors, trailers, semi-trailers, motor buses, house trailers, or any other vehicle subject to the vehicle registration license tax law or the title registration law to furnish information relative to their sales on any periodic basis designated by the vehicle commissioner. The statements shall include the serial number, motor number, type, year, model of the vehicle sold, the total sales price, any allowance for trade-in, a description of the trade-in, the total cash difference to be paid by the purchaser, and any sales or use taxes to be paid. The vehicle commissioner is also authorized to secure whatever other additional information is necessary for proper administration of the tax.

8. R.S. 47:303(A)(3) allows a credit against the state use tax for taxes paid to another state provided the other state allows a similar credit for taxes paid to Louisiana. For credits allowed against taxes imposed by *local taxing authorities*, see R.S. 47:337.86.

9.a. Generally, a certificate of title or vehicle registration will not be issued to any purchaser for any vehicle on which *state or local sales or use tax* has not been paid. However, R.S. 47:303(B)(5) provides an exception for purchasers who paid the proper taxes due to the vehicle dealer at the time the vehicle was purchased, but the dealer did not remit the taxes to the vehicle commissioner. Under this provision, a motor vehicle purchaser who has not been issued a certificate of title or vehicle registration license within six months after the date of the sale, may submit a written request to the *secretary* showing that:

a.i. - b. ...

C. Collection of Tax from Auctioneers

1. Generally, the sales tax law contemplates a situation in which the owner of property, or a person having title to property, sells tangible personal property to another person, thereby creating a taxable transaction. In this instance, the sales tax law places a liability upon the seller to collect the *state and local sales or use tax* from the purchaser and remit the tax to the appropriate *collector*. Because of this basic concept, special provisions have been included in R.S. 47:303(C) and 47:337.15(C) to cover sales which do not fall within that general method of doing business. In the case of auctioneers, the actual owner of the property turns it over to the auctioneer who conducts the sale and consummates the final transfer of title, as a third party, from the owner to the purchaser. He may well represent a number of property owners at one auction sale.

2. In view of the unique position occupied by auctioneers with relationship to the owner of the property being sold, R.S. 47:303(C) and 47:337.15(C) require that all auctioneers shall register as dealers and must display their registration certificates to the public as a condition of doing business in a *taxing jurisdiction*. The auctioneer is then held responsible for collecting all *state and local sales or use tax* on articles sold by him and is responsible for properly reporting and remitting the amount collected.

D. Collection of Tax on Motorboats and Vessels

1. R.S. 47:303(D) and 47:337.15(D) provide that the secretary of the Department of Wildlife and Fisheries shall not issue a certificate of registration on any boat or vessel which is purchased in, or imported into, Louisiana until satisfactory proof is presented showing that all state and local sales taxes have been paid. This will be in the form of a "tax payment certification for boat registration", which is available through the boat dealer or at any office of the Department of Revenue.

2. ...

3. In the case of a boat or vessel brought in from another state, the certificate must be completed and signed by the purchaser and a revenue deputy of the Department of Revenue and also by a tax collecting agent of the local *collector* where the purchaser resides. The proper use taxes will be due to the appropriate *state and local taxing authorities*, subject to credit for sales taxes paid in another state, as provided by R.S. 47:303(A) and 47:337.86.

4. In the case of a boat or vessel purchased from an individual owner who is not engaged in the business of selling boats or vessels, the certificate must be completed and signed by the purchaser and a revenue deputy of the Department of Revenue and by a tax collecting agent of the local *collector* where the purchaser resides. Sales of boats and vessels by individual owners will be regarded as isolated or occasional sales, and not subject to *state and local sales or use tax*. The purchaser, however, must provide sufficient documentation to support such a basis for exemption, such as a canceled check and a notarized bill of sale, or the prior owner's certificate of registration showing his or her transfer of ownership to the purchaser.

5. ...

E. Collection of Tax on Off-road Vehicles

1. R.S. 47:303(E) and 47:337.15(E) point out clearly that off-road vehicles are subject to *state and local sales or use tax* and require that a certificate of title be obtained from the vehicle commissioner in the same manner as with other motor vehicles. The exclusion of motor vehicles from the isolated or occasional provision which appears in R.S. 47:303(B)(4) applies equally to off-road vehicles as it does to cars and trucks. Thus, a purchaser of an off-road vehicle from a person who is not registered with *state and local taxing authorities* to collect and remit sales taxes shall pay the proper sales taxes at the time the vehicle is titled.

2. ...

F. Collection of Tax on Memberships in Health and Physical Fitness Clubs. R.S. 47:303(F) and 47:337.15(F) concern the collection and remittance of sales taxes for memberships in health and physical fitness clubs due under R.S. 47:301(14)(b). Generally, the taxes imposed under *state and local sales and use tax* laws are to be reported and remitted for the period in which the sale of tangible personal property or the sale of taxable services occurred, regardless of whether or not the vendor has collected the proceeds or taxes from the customer. R.S. 47:303(F) and 47:337.15(F), however, provide that operators of health and physical fitness clubs may report and remit the taxes due on memberships for the period in which the proceeds are actually collected, for those sales of memberships which are payable over an extended period of time, on a monthly basis. Such extended payment plans typically include actual or imputed interest charges in each monthly payment. Only the membership dues are subject to the tax, so that the club operator may report as sales of services, and remit taxes on, only that portion of the proceeds which represents membership dues, according to the terms of the contract. Also, if the club operator uses a collection agency to collect the amounts due, the collection fees withheld from the proceeds are subtracted from the reported sales of services. When membership contractual payment plans are resold to a financial institution, only the net proceeds received by the club operator will be the amount reported as sales of services for that reporting period. The discount withheld by the financial institution will be regarded as interest, and will not be included in the taxable base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:303, R.S. 47:337.2, R.S. 47:337.15, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR

20:316 (March 1994), amended by the Department of Revenue, Policy Services Division, LR 29:2116 (October 2003), LR 30:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 22, 2004. A public hearing will be held on Tuesday, October 26, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Collection of Uniform State and Local Sales Tax Definitions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:I.4307 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding

transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Corporation Income Tax (LAC 61:I.1148)

Under the authority of R.S. 47:287.441, R.S. 47:287.444, R.S. 47:287.601, R.S. 47:287.612; R.S. 47:287.614, R.S. 47:287.623, R.S. 47:287.651, R.S. 47:287.732, R.S. 47:287.785 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1148 relative to the filing of corporation income tax returns.

Changes in corporate ownership require the taxpayer to file short period Louisiana corporation income tax returns. By amending LAC 61:I.1148, the Department of Revenue will provide guidance to taxpayers regarding the requirements for filing short period Louisiana corporation income tax returns when there is a change in corporate ownership.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 11. Income: Corporation Income Tax §1148. Corporation Returns

A. General Rules. Every corporation deriving income from Louisiana sources shall file a return on forms secured from the secretary or by electronically filing a return, unless expressly exempt from the tax. The first return and the last return of a corporation are returns for a full year and not for a fractional part of a year. A corporation does not go out of

existence by virtue of being managed by a receiver or trustee who continues to operate it.

B. - C. ...

D. Change in Ownership

1. Except as otherwise provided herein, when a change in ownership results in no change to the accounting period but results in the income of the taxpayer being reported on two separate federal returns, the taxpayer may either file one return for the entire accounting period or file two short period returns. If two short period returns are filed the due date of both returns is the due date of the accounting period year-end return.

2. Except as otherwise provided herein, when a change in ownership results in a change to the accounting period, the filing of two short period returns is required. The due date of the first short period return is the fifteenth day of the fourth month following the last day of the calendar month in which the change in ownership occurred. If information concerning the federal income deduction is not available, an amended return will be required for this period once the information is known. The due date of the last short period return is the due date of the new accounting period year-end return.

3. When a one-day return is required under federal law, that one-day is a separate accounting period for Louisiana reporting purposes. A separate return is required for that one day. This will usually result in the filing of three short period returns. The due date of the first short period return is the fifteenth day of the fourth month following the last day of the calendar month in which the change in ownership occurred. The due date of the one-day return is the fifteenth day of the fourth month following the last day of the calendar month in which the one day falls. The due date of the last short period return is the due date of the new accounting period year-end return.

4. All short period tax is computed under the provisions of R.S. 47:287.444.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.441, R.S. 47:287.444, R.S.47:287.601, R.S. 47:287.612, R.S. 47:287.614, R.S. 47:287.623, R.S. 47:287.651, R.S. 47:287.732, R.S. 47:287.785 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:108 (February 1988), amended by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

The proposed adoption of the amendment to LAC 61:I.1148, which will provide guidance to taxpayers regarding the requirements for filing short period Louisiana returns when there is a change in corporate ownership for corporation income tax purposes, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 4:30 p.m. Thursday, October 28, 2004. A public hearing will be held on Friday, October 29, 2004 at 9 a.m. in the River Room Conference Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Corporation Income Tax**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed amendment to the regulation will have no impact upon any governmental units.

The implementation of this proposed regulation, which will provide guidance to taxpayers regarding the requirements for filing short period Louisiana corporation income tax returns when there is a change in corporate ownership, would have no impact on the agency's costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on state or local revenue collections as a result of this proposed amendment to the regulation. The proposed Rule is the same as current practice.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no directly affected persons or nongovernmental groups. Current filing requirements will not change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Imposition of Tax Uniform State and
Local Sales Tax Definitions
(LAC 61:I.4303)

Under the authority of R.S. 47:302, R.S. 47:337.2, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4303 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4303. Imposition of Tax

A. - B. 2. d. ...

3. Treatment of the Tax Levied by *Local Taxing Authorities* for Inter-jurisdictional *Lease* or *Rental* Transactions.

a. For the purpose of *local sales or use tax* levied upon the *lease* or *rental* of *tangible personal property*, the tax for the initial lease or rental period is due to the *local taxing jurisdiction* where the transfer of possession of the leased property occurs.

b. For subsequent lease or rental periods, when there is no additional transfer of possession, the tax is due to the *local taxing jurisdiction* where the property is primarily located. The primary location of the property is that location designated by the lessee and made known to the lessor from records maintained in the ordinary course of business.

c. Possession or use of the leased property in a *local taxing jurisdiction* where the property is not primarily located will subject the lessee to the taxes imposed by that *local taxing jurisdiction*. However, a credit will be allowed for the lease period for any tax previously paid to another *local taxing authority* under the provisions of Subparagraphs a or b of this Paragraph. It is the lessee's responsibility to report any additional tax due.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:302, R.S. 47:337.2, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 13:107 (February 1987), amended LR 19:1033 (August 1993), amended by the Department of Revenue, Sales Tax Division, LR 23:1703 (December 1997), amended by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 22, 2004. A public hearing will be held on Tuesday, October 26, 2004, at 10:00 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Imposition of Tax Uniform State and Local Sales Tax Definitions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4303 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use

tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Returns and Payment of Uniform State
and Local Sales Tax Definitions
(LAC 61:1.4351)

Under the authority of R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:1.4351 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

**§4351. Returns and Payment of Tax, Penalty for
Absorption of Tax**

A. General. All persons and dealers who are subject to *state or local sales or use tax* are expected and required to file a tax return monthly, unless otherwise provided, and to remit the amount of tax due to the *collector*. Forms will be provided by the *collector*, and although the forms are usually

mailed to each dealer, failure to receive same will not relieve the dealer of the necessity of filing and remitting the tax due currently. For the purpose of collecting and remitting *state and local sales or use tax*, the dealer is hereby declared to be the agent of the *taxing authority*.

1. After a dealer is properly registered for sales and use tax purposes, an identifying sales tax number is assigned to that dealer. The assignment of a regular sales tax number requires a dealer to file a monthly return and failure to do so will cause the *collector* to send an estimated proposed assessment. For months when the dealer has no taxable sales or amounts to report, the return should be marked "no sales or taxable amounts," signed by the dealer and filed with the *collector*. Monthly returns are required to be filed with the *collector* on or before the twentieth day of the month following the month in which the tax becomes effective.

2. The *collector*, for good cause, may extend, for a period not to exceed 30 days, the time for making any returns required under Chapter 2 of Title 47 of the Louisiana Revised Statutes of 1950, as amended, or the Uniform Local Sales Tax Code. Failure of the dealer to abide by the agreement and file returns and remittances as required will result in an immediate cancellation of the extension agreement by the *collector*.

3.a. Solely for *state sales or use tax* purposes, the tax computed to be due by the dealer is payable at the time the return is due, and failure to do so will cause the secretary to issue a 10-day demand assessment. Failure to file the returns on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation and other charges as provided by law. See R.S. 47:1519 for information on electronic funds transfers (EFT)

b. Solely for *local sales or use tax* purposes, refer to R.S. 47:337.18(A) for guidance on the filing of sales tax returns and payment of the tax.

4. ...

5. The dealer is compensated for accounting for and remitting the *state sales or use tax* at the rate established by R.S. 47:306. Local ordinances govern the rate of compensation, if any, for accounting for and remitting *local sales or use tax*. The amount of compensation is computed by multiplying the rate by the amount of tax due and deducting that amount from the total tax accounted for and payable to the *collector*, before taking credit for taxes already paid to a wholesaler.

6. ...

B. Exceptions. Not all dealers are required to file returns on a monthly basis.

1.a. Solely for *state sales or use tax* purposes, upon registration, all dealers are required to file monthly returns. After the *dealer* has operated for a few months, and it is determined that the amount of tax liability averages less than \$500 per month, the *dealer* will be notified and required to file quarterly returns. Application to file quarterly is not necessary, as notification is automatic once a determination is made by the secretary that such a filing procedure is in order. Quarterly returns should be filed on or before the twentieth day of the first month of the next succeeding quarter. Irregular sales tax returns and use tax returns should be filed on or before the twentieth day of the month following the month in which the taxable transaction occurred. The returns should be prepared in a manner that

will enable the secretary to ascertain the correctness of the tax computed to be due. Accordingly, each line of the tax return should be completed, and all amounts not taxable should be identified.

b. Solely for *local sales or use tax* purposes, R.S. 47:337.18(A)(1)(b)(i) requires a *dealer* to file quarterly returns whenever the taxes due average less than thirty dollars per month.

2. A *dealer* may file returns using alternate filing periods. The method for filing shall be approved by the *collector* before the method is used to file a return. If an alternate period filing method is approved for use, the number of short periods during a year must be greater than or equal to the number of long periods during that same year. At the beginning of each year the dealer must, after obtaining approval for the alternate period filing method, file with the *collector* a calendar for the year showing the alternative filing periods for that year. Amendments to approved calendars must be submitted for approval prior to the affected periods. The taxpayer's account shall be reviewed to determine if the taxpayer has correctly filed returns, according to the calendar submitted at the beginning of the year. If the taxpayer does not follow the approved alternate filing method, the returns for the year under review shall be converted to a calendar month basis and the taxpayer's request to use an alternate period filing method for the subsequent year will be denied. Alternate period returns shall be filed on or before the twentieth day following the close of the alternate filing period. Failure to file on or before this date will subject the dealer to delinquency charges, loss of vendor's compensation, and other charges as prescribed by law.

C. Advance Sales Tax. R.S. 47:306(B) was amended in 1965, to require all manufacturers, wholesalers, jobbers, suppliers, and brokers of tangible personal property to collect an advance payment of *state sales or use tax* on sales of all tangible personal property, and such payment is required only as a means of facilitating collection of the sales tax. Previous to this amendment, such sales of tangible personal property were considered exempt for taxation since under the statute, wholesale sales were not taxable. Accordingly, these new dealers were required to register with the *secretary* in order to collect and remit advance *state sales or use tax* from the sale of all tangible personal property made to retail dealers who resell the property to final users and consumers. The advance payment of the *state sales or use tax* is required upon all sales of tangible personal property to other dealers unless, specifically exempted by statute, or Form LGST-9 is obtained and kept on file by the dealer making the sale. Exemption certificate LGST-9 will only be recognized if the dealer making the purchase of tangible personal property states that the purchases are for resale or further processing by wholesale dealers and manufacturers. Those businesses purchasing property for resale that qualify as "wholesale dealers" can be exempted from the payment of the advance *state sales or use tax*.

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales

Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997), amended by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our Legislative Oversight Committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 22, 2004. A public hearing will be held on Tuesday, October 26, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Returns and Payment Uniform State and Local Sales Tax Definitions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4351 are in response to requests

received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Treatment of Tax by Dealer
Uniform State and Local Sales Tax Definitions
(LAC 61:I.4311)

Under the authority of R.S. 47:304, R.S. 47:337.2, R.S. 47:337.17, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4311 to provide for uniform state and local sales tax definitions in accordance with the provisions of Act 73 of the 2003 Regular Legislative Session.

Act 73 enacted the Uniform Local Sales and Use Tax Code, R.S. 47:337.1 et seq., to promote uniformity in the administration of state and local sales and use taxes by compiling the local sales and use tax laws in the revised statutes. Revised Statute 47:337.2(C)(2), which provides for the development of uniform state and local sales and use tax regulations, allowed local sales tax collectors until January 1, 2004, to file written requests with the Secretary of Revenue for amendments to any Department of Revenue regulation in effect on July 1, 2003, so that the regulation applies to both state and local sales and use taxes. Local collectors, through the Louisiana Association of Tax Administrators, filed a request with the Secretary of Revenue in December 2003 for amendments to several

regulations. Requested amendments to the sales tax definitions are included in this Notice of Intent.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4311. Treatment of Tax by Dealer

A. R.S. 47:304 governs the treatment of *state sales and use tax* and R.S. 47:337.17 governs the treatment of *local sales and use tax* that must be collected by *dealers*. Both statutes place the primary burden for operation of the sales tax system upon the seller of merchandise, the performer of taxable services, and the rentor or lessor of property, and require that he collect the tax from the purchaser, user or consumer. If a *dealer* fails or refuses to collect the tax, he not only becomes liable for payment of the tax, but also subjects himself to the possibility of being fined a maximum of \$100 or imprisoned for a period of time not to exceed three months, or both.

B. This primary burden of collecting and remitting sales tax does not apply to the taxes on motor vehicles subject to the vehicle registration license tax, the collection of which is described in R.S. 47:303(B) (LAC 61:I.4307.B). However, dealers of off-road motor vehicles are charged with the responsibility for collecting and remitting the tax on sales of all such off-road vehicles, notwithstanding that they are also dealers of motor vehicles subject to registration and licensing by the motor vehicle commissioner. Dealers of off-road vehicles shall, in addition to collecting and remitting the tax to the *collector*, provide the purchaser with a notarized bill of sale, or other documentation, sufficient to prove that the proper taxes have been paid by the purchaser, and to enable the purchaser to obtain a certificate of title from the office of the motor vehicle commissioner.

C. - D. ...

E. Certificates of exemption from *state or local sales or use tax* are obtainable from the appropriate *collector* by persons making purchases which may be exempt in whole or in part at the time of purchase or upon which the tax may be deferred until some later event which dictates taxability of the transaction. While primary responsibility for collection of the taxes rests upon the seller, the purchaser who furnishes the seller an exemption certificate will be held liable for any taxes subsequently found to be due.

F. In cases where the total amount of *state or local sales or use tax* collected for a sales tax filing period exceeds the percentage applicable to the particular type of merchandise or service, any such excess must be remitted to the appropriate *collector*.

G. For provisions relating to the amount of *state sales or use tax* collected by a dealer which may be withheld by him as compensation for collecting, accounting for, and remitting the tax to the secretary, see R.S. 47:306. The amount of compensation allowed for reporting *local sales or use tax* is governed by local ordinance.

H. R.S. 47:304 and R.S. 47:337.17 prohibit the use of tokens in the operation of the sales tax law and provides that the *secretary* shall prescribe schedules of the amounts to be collected from purchasers, lessees, or consumers with respect to each sale. Such schedules integrate the collection of the *state and local sales or use tax*, and their use is

mandatory with respect to both *dealers* and *political subdivisions* that impose a sales or use tax. The mandatory tables required by R.S. 47:304 and R.S. 47:337.17 will be prepared by the Department of Revenue at the request of any *local taxing authority*, to reflect the aggregate *state and local sales or use tax rate*. Any *dealer*, as well, may obtain these prepared tax rate schedules from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:304, R.S. 47:337.2, R.S. 47:337.17, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 22, 2004. A public hearing will be held on Tuesday, October 26, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Treatment of Tax by Dealer Uniform State and Local Sales Tax Definitions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 73 enacted R.S. 47:337.1 et seq., the Uniform Local Sales Tax Code. R.S. 47:337.2(C)(2), which

provides for the development of uniform regulations that are common to both state and local sales tax laws, allowed local sales tax collectors until January 1, 2004, to request the Secretary of Revenue to amend any Department of Revenue regulation in effect on July 1, 2003, concerning a common sales tax law so that the regulation applies uniformly to both state and local sales and use tax laws. The proposed amendments to LAC 61:1.4311 are in response to requests received from local sales tax collectors. Implementation of these proposed amendments, which make no changes to the administration of state or local sales and use tax laws regarding transactions subject to tax, will have no effect on state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local governmental units as a result of these proposed amendments. Act 2003, No. 73 allowed local tax collectors to request amendments to provide for the uniform application of sales and use tax laws common to state and local impositions. The amendments requested by the local tax authorities reflect the current administration of the state and local sales and use tax laws and will have no effect on state or local sales tax revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no effect on economic costs or benefits to Louisiana taxpayers since they do not alter the manner in which state or local sales and use tax laws are administered. Taxpayers will benefit by having a single source of regulations for state and local sales and use taxes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

Cynthia Bridges
Secretary
0409#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Highways/Engineering

Guidelines for Vegetation Visibility Permits (LAC 70:1.315)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development, intends to amend §315 of Chapter 3 of Part I of Title 70 entitled "Guidelines for Vegetation Visibility Permits" in accordance with R.S. 47:820, et seq.

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 3. Roadside Vegetation Management §315. Guidelines for Vegetation Visibility Permits

A. General. The Department of Transportation and Development recognizes that the presence of vegetation on highway rights-of-way has a positive value for Louisiana. Trees benefit the state by mitigating the impact of the highway system, increasing soil stabilization, providing wildlife habitat, and moderating microclimate extremes. The

Department of Transportation and Development endorses the preservation of existing vegetation along transportation corridors. It may become necessary to remove vegetation when maintenance and safety concerns warrant such action. The Department of Transportation and Development may consider trimming and removal of vegetation that visually impacts legally permitted outdoor advertising displays and adjacent businesses. However, not every permit request will be granted. Factors such as land use, visual screening of and from the roadway, tree species types and conditions, and public opinion will be considered before a final determination is made. All permits granted for vegetation removal will require mitigation in the form of replacement plantings. Maintenance of these planting areas will become the responsibility of the permittee. Permits will only be issued between October 15, and April 15 to promote optimum survival of replacement vegetation.

B. Procedure. Requests for trimming or removal of vegetation for visibility of off-premise or on-premise advertising displays or for trimming or removal of vegetation for visibility will be made using the Vegetation Enhancement Permit Form, copies of which will be maintained in each district office. The application for a permit shall include the following:

1. state or federal highway number;
2. location or distance from nearest state highway intersection to the proposed location;
3. number, name of species, approximate diameter and height of existing trees which are projected for removal;
4. where trees are in groups, the diameters and heights may be shown for each group as a whole; i.e., 10 oaks and pines 8" to 12" diameter, 30' to 50' high;
5. approximate number and names of shrubs and vines or, if the number cannot be estimated, the distance and location along the highway from point-to-point must be shown;
6. kind of work to be done (trimming, removal and replacement (replacement at a rate of two replacements to one removal, where space permits, will be required in all instances where removal of vegetation is requested). No topping of trees will be allowed;
7. 8" x 10" color photographs (printed digital photographs are acceptable) taken from required locations (see Diagrams 1 and 2) clearly marked to show limits of work:

a. as part of his review, the traffic operations engineer will verify the location of the display and will forward the request to the Headquarters Permits Unit with information about the display's legal status. Legal status will include available and pertinent information that should be considered, including but not limited to the following:

- i. Is this display under active citation?
- ii. Is this display subject to imminent removal?
- iii. Is this display illegally placed?
- iv. Is this display nonconforming to state beautification criteria?

b. where replacement of trees is required, a plan (designed by a licensed landscape architect, at no cost to the department) will be submitted to the department for review, comments and/or approval;

c. trimming and removal of trees must be performed by a bonafide bonded tree care service at no cost

to the department. A licensed landscape contractor shall perform replacement to trees at no cost to the department. The permit shall contain a warranty clause wherein the permittee agrees to maintain, remove and replace any trimmed or replacement tree or vegetation not living or seriously damaged for the life of the permit;

d. the value of the trees removed shall be determined by a forester and that value shall be remitted to the department as required by Act 308 of the 2004 Regular Session of the Louisiana Legislature (R.S. 48:282);

e. visibility improvement will not be undertaken in any of the following instances:

i. the clearing or trimming is requested to provide visibility for outdoor advertising prior to, or during display placement, or where the display has been in place less than five calendar years;

ii. the display is illegally placed;

iii. the display is currently under contract with the state to be removed or it will be removed within one year;

iv. the display is on state property;

v. a right-of-way taking is imminent within one year;

vi. vegetation work is planned by the department or other parties where construction on a proposed highway project is imminent within two years;

vii. the trees or other vegetation to be trimmed, selectively removed or removed and replaced are a distance greater than 500 feet, measured along the highway from the display;

viii. the clearing or trimming is requested to provide visual access to a site before the proposed development has begun;

ix. the clearing or trimming requested to provide visual access to a site would expose an objectionable view and would not be in the best interest of the traveling public (i.e. maintenance area, loading dock, etc.);

x. the clearing or trimming requested to provide visual access to a site would expose the traveling public to oncoming headlights from an existing or proposed road; or

xi. clearing and reforestation work is planned by the department;

f. access to the work area shall be from private property or frontage road side and not from the main roadway or ramps. Where this is not practical the permittee shall conduct his operation in accordance with DOTD Maintenance Standards, including appropriate traffic control devices. The area shall be restored to original condition upon completion of the work;

g. drainage shall not be impeded;

h. work will be performed only during regular daylight hours, during which the Department of Transportation and Development is open, Monday through Friday excluding legal holidays. When a lane closure on a state highway is necessary, the department shall ensure, whenever feasible, that such landscaping or maintenance work is not performed between the hours of 7 a.m. and 9 a.m. nor between the hours of 3 p.m. and 6 p.m.;

i. vegetation which has been cut will not be left overnight within 30 feet of the travel land or within the highway right-of-way, whichever is less. No more vegetation will be cut down than can be cleaned up and removed by the end of the work the following day. No debris will be left

over a weekend or holiday. No burning will be permitted on the highway right-of-way. Stumps shall be cut or ground flush with the ground and treated with an EPA and department-approved herbicide immediately after the stump is cut;

j. work shall not interfere with traffic on the roadway or shoulder at anytime. Parking of vehicles or roadway or shoulder shall not be permitted. All loading, hauling, or other work associated with the permit will be conducted across adjacent property. Appropriate warning signs shall be placed by the permittee in advance of the work area in accordance with the current edition of Part VI of the Manual on Uniform Traffic Control Devices (MUTCD) Standards and Guides for Traffic Controls for Streets and Highway Construction, Maintenance, Utility and Incidental Maintenance Operations;

k. the vegetation control area will not extend more than 500 feet along the highway from the viewable face(s) of the advertising device and cleared to and along the line of sight; and

l. where operations are conducted in an unsatisfactory manner or for any other cause, the department may revoke the permit and any future permitting will be withheld until the unsatisfactory condition has been corrected.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:1674 (August 2000), LR 30:

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Sherryl J. Tucker,

Senior Attorney, P. O. Box 94245, Baton Rouge, LA 70804, Telephone (225) 237-1359.

J. Michael Bridges, P.E.
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Guidelines for Vegetation Visibility Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no cost to state or local governmental units in implementing this rule change. The permit process for management of roadside vegetation has been in place since 1991. This rule-making makes technical changes in the existing rules which are administered by the department. The rules govern the method of vegetation placement and removal both by the department and by the public by permit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately thirty (30) permits are issued annually by the department for vegetation thinning or removal. Considering the variables in areas of right-of-way under the jurisdiction of the Department of Transportation and Development statewide, an average dollar amount for each reimbursement will be dependent upon the amount of merchantable product within each permitted area; however this amount is not estimated to be significant based on permits issued during Fiscal Year 2003-2004.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only persons directly affected by the proposed rule change are those persons or companies or governmental entities which procure permits from the department for vegetation thinning or removal within highway rights-of-way. While these permits are issued presently at no charge, the new rule tightens the requirements for replanting and provides for remittance of the value of the removed vegetation by the permittee. The permittee will also be required to make more substantial replacements and maintain same for the duration of the permit. This cost should be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule-making should have no effect on competition or employment.

J. Michael Bridges, P.E.
Undersecretary
0409#073

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Highways/Engineering

Pipe Bursting/Crushing
(LAC 70:II.Chapter 19)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a Rule entitled "Pipe

Bursting/Crushing" in accordance with R.S. 48:381, et seq.

Title 70

TRANSPORTATION

Part II. Utilities

Chapter 19. Pipe Bursting/Crushing

§1901. Definition

A. The pipe bursting process is defined as the reconstruction of pipeline by installing an approved pipe material, by means of one of the pre-approved processes set forth in this specification.

B. The process involves one of the following methods:

1. the use of a hydraulic "moling" device or pneumatic hammer, suitable in size to break out the old pipe; or
2. the use of a modified boring "knife" with a flared plug that implodes and crushes the existing sewer pipe;
3. forward progress of the "mole" or the "knife" may be aided by the use of a hydraulic winch, as specified in the patented process;
4. the replacement pipe is either pulled or pushed by means of hydraulic force into place, size on size and/or upsizing two pipe sizes or upsizing according to manufacturer specifications;
5. the size hammer to be used shall be the minimum diameter necessary to facilitate the restoration process. Oversized hammers shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1903. Applicability and Liability

A. Pipe bursting will only apply to water or sewer pipes, with the recommendation of the District Permit Specialist and with the approval of the Headquarters Permit Engineer.

B. If allowed, the fragments of the old pipe remaining in the soil shall not be considered abandoned until such time as the replacement pipe is abandoned.

C. The fragments of the old pipe, as well as the replacement pipe, both remain the liabilities of the permittee, and can only be abandoned as provided for in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1905. Responsibility for Overflows and Spills

A. It shall be the responsibility of the permittee to schedule and perform the work in a manner that does not cause or contribute to incidents of overflows or spills of sewage from the sewer system.

B. In the event that the work activities of the permittee contribute to overflows or spills, the permittee shall immediately take appropriate action as follows:

1. contain and stop the overflow;
2. clean the spillage;
3. disinfect the area affected by the overflow or spill; and
4. notify the owner in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1907. Indemnification

A. The permittee will indemnify and hold harmless the DOTD for any fines or third-party claims for personal or property damage arising out of a spill or overflow that is fully or partially the responsibility of the permittee, including legal, engineering, and administrative expenses of the DOTD in defending such fines and claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1909. Materials

A. The replacement pipe used in pipe bursting operations shall be High Density Polyethylene (HDPE) Pipe manufactured from a high density, high molecular weight polyethylene resin which conforms to ASTM D-1248 and meets the requirements for Type III, Class A, Grade P34, Category 5, and has a PPI rating of PE 3408, when compounded.

B. The pipe produced from this resin shall have a minimum cell classification of 345434D or E (inner wall shall be light in color) under ASTM D3350.

C. All pipe shall be made from virgin material. No reworked material shall be used except that obtained from the manufacturer's own production of the same formulation.

D. Before commencement of work, the permittee shall submit to the DOTD for approval, the vendor's specific technical data with complete physical properties of pipe and pipe dimensions pertinent to the job.

E. The Standard Dimension Ratio (SDR) Classification for various depths shall be as follows.

1. The Standard Dimension Ratio (SDR), which is the ratio of the outside diameter (OD) of the pipe to its minimum wall thickness, shall be specified for the various depths listed in Table I.

2. The depth shall be measured from the upstream and downstream manhole rim to the invert of the existing sewer in the pipe segment to be replaced.

3. The SDR shall be selected for the deeper of the two manholes for a given pipe segment.

Table I	
Polyethylene Pipe SDR	
(Applicable SDR for Depth Range)	
HDPE Pipe SDR	Maximum Depth (Feet)
21	10
17	20

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1911. Backfill

A. All excavations within the limits of the right-of-way shall be backfilled and tamped in layers to the density of the adjacent undisturbed soil.

B. Where sod is removed or destroyed, it shall be replaced.

C. Where it is necessary to make excavations in the shoulder, the top 6 inches of backfill shall be with like shoulder material.

D. Existing soil materials declared unsuitable for backfill by the DOTD shall be disposed of by approved methods and replaced with select material as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1913. Pre-Installation Preparation

A. The permittee shall submit a work plan with the permit application to the DOTD for review and acceptance. The work plan shall address the following minimum preparation/steps, unless approved otherwise by the DOTD.

1. It is the responsibility of the permittee to examine the proposed line segment and notify the DOTD if conditions exist that could cause problems with the pipe bursting/crushing method. These could include nearby services that could be damaged by the operations, existing slabs that could be damaged, or less than acceptable depth of cover.

2. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any underground facilities such as cable or conduits, the applicant must be a member of Louisiana One-Call.

3. When pipe bursting under a roadway, the pipe being replaced must be a minimum depth of 8 feet below the roadway. Therefore, all adjacent underground utilities must be located by the permittee. Pipe bursting will not be allowed within a distance of 3 feet or 3 times the diameter of the replacement pipe, whichever is greater, from existing underground utilities.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1915. Pre-Installation CCTV Inspection

A. It shall be the responsibility of the permittee to televise the sewer pipe immediately before the pipe bursting/crushing to assure that the existing pipe conditions are acceptable for pipe bursting/crushing.

B. If Pre-Installation CCTV inspection reveals a sag in the existing sewer that is greater than one-half the diameter of the existing pipe, it shall be the responsibility of permittee to install the replacement pipe so that the result is an acceptable grade without the sag. The permittee shall take the necessary measures to eliminate these sags by one of the following measures:

1. pipe replacement
2. digging a sag elimination pit and bringing the bottom of the pipe trench to a uniform grade in line with the existing pipe invert, or
3. by other measures approved by the DOTD.

C. Eliminating sags under the roadway will not be allowed if it necessitates open cutting the roadway.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1917. Bypassing Sewage

A. When required for acceptable completion of the pipe bursting/crushing process, the permittee shall provide for

continuous sewage flow around the section(s) of pipe designated for the installation of replacement pipe

B. The pump bypass lines shall be of adequate capacity and size to handle the flow.

C. Bypass pumping shall be considered incidental to the installation of the replacement pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1919. Access to Worksite and Traffic Control

A. Access to the work area shall be from the main roadway or ramps or from the adjacent property, as safety dictates.

B. The permittee shall conduct his operation in accordance with DOTD Maintenance Traffic Control Handbook and shall utilize appropriate traffic control devices.

C. The disturbed access areas shall be restored to original condition upon completion of the work.

D. Work will be performed only during regular daylight hours, Monday through Friday excluding legal holidays, when the department is open.

E. When a lane closure on a state highway is necessary, the department shall ensure, whenever feasible, that work is not performed between the hours of 7:00 a.m. and 9:00 a.m. or between the hours of 3:00 p.m. and 6:00 p.m.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1921. Installation Process

A. The permittee shall submit information, in detail, on the procedure and steps to be followed for the installation of the pipe bursting/crushing method selected, even if the process is named in the specification.

B. All such instructions and procedures submitted shall be carefully followed during installation.

C. Any proposed changes in installation procedures shall require submittal of revised procedures and acceptance by the DOTD.

D. If the roadway is damaged, permittee is responsible for repairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

§1923. Insertion Pits

A. The location and number of insertion pits shall be planned by the permittee and submitted in writing for approval by the DOTD prior to excavation.

B. The pits shall be located in a manner that their total number shall be minimized and the length of replacement pipe installed in a single pull shall be maximized.

C. Repairs under the roadway will not be allowed if it necessitates open cutting the roadway. If difficulty with the crossing is experienced, the utility company must install and bear the total cost of a new crossing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:

J. Michael Bridges, P.E.
Undersecretary

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.
5. The implementation of this proposed Rule will have no known or foreseeable effect on behavior and personal responsibility of children.
6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225)237-1359.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pipe Bursting/Crushing

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule will likely result in an indeterminable, but insignificant, reduction in costs for both the state and local governmental units. The purpose of the rule is to recognize the technological advances in utility installation and rehabilitation; to allow a new method of pipe rehabilitation while providing safeguards for the department, other utilities and the traveling public. This new method will be utilized principally by municipalities which have sewer and water systems located within state highway rights-of-way. These local governmental units will likely realize cost savings in utilization of the new method because open trenching for the removal and immediate disposal of unused pipe will no longer be necessary. This method also minimizes disruption to traffic during sewer or water line removal or rehabilitation, thereby reducing the likelihood that traffic control by the state will be necessary during these projects.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no impact on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only persons directly affected by the proposed rule change are those persons or companies which procure permits from the department for utility installations, sewer or water only, within highway rights-of-way under the jurisdiction of the Department of Transportation and Development. A cost benefit may be realized because this method is safer and less expensive than the open trenching method currently allowed. There is also less disruption to traffic.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule-making should have no effect on competition or employment.

J. Michael Bridges, P.E. Robert E. Hosse
Undersecretary General Government Section Director
0409#072 Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(N). Said Rule is attached and made a part of this Notice of Intent.

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 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.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 10-day period from 6:00 a.m., February 18, 2005 through 6:00 a.m., February 27, 2005 within that portion of Cameron Parish as described below.

1. From a point originating from the intersection of the southern side of LA Highway 82 and the eastern shore of Sabine Lake, thence north along the eastern shoreline of Sabine Lake to its intersection with East Pass, thence due north to Sabine Island, thence west along the southern shoreline of Sabine Island to its westward most point, thence due west to the Texas state line, thence south along the Louisiana/Texas state line to its intersection with LA Highway 82, thence east along the southern side of LA Highway 82 and terminating at its intersection with the eastern shore of Sabine Lake.

B. The use of crab traps shall be prohibited for a 16-day period from 6:00 a.m., March 5, 2005 through 6:00 a.m., March 20, 2005 within that portion of Terrebonne Parish as described below:

1. From a point originating from the intersection of LA Highway 57 and Dulac Canal, thence east along LA Highway 57 to its intersection with LA 56, thence due east to the western shoreline of Bayou Little Caillou, thence north along the western shoreline of Bayou Little Caillou to its intersection with Lapeyrouse Canal, thence east along the northern shoreline of Lapeyrouse Canal to its intersection with Bayou Terrebonne, thence south along the eastern shoreline of Bayou Terrebonne to its intersection with Seabreeze Pass, thence southwest to channel marker number 17 of the Houma Navigation Canal (Lat. 29° 11' 11.3" N., Long. 90° 36' 44.5" W.), thence southwest to the northern most point on Pass la Poule Island (Lat. 29° 08' 33.5" N., Long. 90° 39' 01.3" W.), thence west to Bayou Sale channel marker (Lat. 29° 06' 31.8" N., Long. 90° 44' 34.2" W.), thence north to the western shoreline of Bayou Sale, thence north along the western shoreline of Bayou Sale to its intersection with Four Point Bayou, thence north along the western shoreline of Four Point Bayou to its intersection with the Houma Navigation Canal, thence north along the western shoreline of the Houma Navigation Canal to its intersection with Bayou Grand Caillou, thence north along the western shoreline of Bayou Grand Caillou to its intersection with Dulac Canal, thence east along the northern shoreline of Dulac Canal and terminating at its intersection with LA Highway 57.

C. The use of crab traps shall be prohibited for a 16-day period from 6:00 a.m., February 26, 2005 through 6:00 a.m., March 13, 2005 within that portion of St. Bernard and Plaquemines Parishes as described below:

1. From a point originating from the intersection of LA Highway 39 and LA Highway 46, thence east along LA Highway 46 to its intersection with LA Highway 300, thence east and then south along LA Highway 300 to its termination, thence due south to Bayou Terre aux Bouefs, thence east along the northern shoreline of Bayou Terre aux Bouefs to its intersection with the Avin pipeline, thence south along the eastern edge of the Avin pipeline to the eastern shoreline of the Mississippi River, thence north along the eastern shoreline of the Mississippi River to a point due west of the intersection of LA Highway 39 and LA Highway 46, thence due east and terminating at the intersection of LA Highway 39 and LA Highway 46.

D. The use of crab traps shall be prohibited for a 9-day period beginning at 6:00 a.m. on the opening of the 2005 Spring inshore shrimp season in Vermilion Bay/West Cote Blanche Bay and ending at 6:00 a.m. nine days following the opening of the 2005 Spring inshore shrimp season in Vermilion Bay/West Cote Blanche Bay within a portion of Iberia and St. Mary Parishes as described below:

1. From a point originating from the intersection of the Gulf Intracoastal Waterway and the Acadiana Navigational Channel, thence southwest along the Acadiana Navigational Channel red buoy line to the red navigational marker number 12 on the Marsh Island shoreline near Southwest Pass, thence east along the shoreline of Marsh Island to Longitude 91° 43' 00" W, thence north along Longitude 91° 43' 00" W to the shoreline of West Cote Blanche Bay, thence west along the northern shoreline of West Cote Blanche Bay to its intersection with the Ivanhoe Canal, thence north along the eastern shoreline of the Ivanhoe Canal to its intersection with the Gulf Intracoastal

Waterway, thence west along the northern shoreline of the Gulf Intracoastal Waterway and terminating at the Acadiana Navigational Channel.

E. All crab traps remaining in the closed areas during the specified periods shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. For the winter closures only, crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed areas. No person removing crab traps from the designated closed areas shall possess these traps outside of the closed areas. However, nonserviceable traps may be possessed by a shrimp fisherman outside of the closed area when in compliance with R.S. 56:332. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 30:

Family Impact Statement

In accordance with Act No. 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).

Interested persons may submit written comments relative to the proposed Rule to Vincent Guillory, Marine Fisheries Biologist Supervisor, Marine Fisheries Division, Box 189, Bourg, LA 70343, prior to Friday, November 5, 2004.

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Removal of Abandoned Crab Traps

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Total cost to implement the proposed Rule, aside from staff time, is estimated to be \$19,600. Implementation and oversight of the abandoned crab trap removal effort will utilize existing staff. No local governmental implementation costs are anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule is expected to have little or no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule prohibits the use of crab traps in specified locations during designated periods in 2005. Crab trap fishermen who have traps within areas proposed for closure will experience lost fishing time and incur additional costs of having to temporarily remove their traps from these areas. They may choose to move their traps to adjacent open fishing areas or choose to remove their traps from the fishery for the duration of the closure (9-16 days). Local seafood dealers and

processors may experience a decrease in availability of fresh crabs during the closures. This impact, however, is expected to be small, since the closures occur in the lowest harvest time of the year and most fishermen are anticipated to move their traps to adjacent waters to fish.

The crab resource will not be lost or harmed in any way and will be available for harvest when the closed areas are reopened. Mortality or injury to crabs and bycatch will be reduced with the removal of abandoned crab traps. Recreational saltwater anglers, shrimp fishermen and individuals who operate vessels within the proposed area closures will benefit from the removal of abandoned crab traps, since encounters

with abandoned traps often result in lost fishing time or damage to the vessel's lower unit and/or fishing gear.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment are expected to be negligible since adjacent waters will remain open for crab harvest and crabbers are expected to continue to fish.

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